

THE
CHARTER
OF
CONNECTICUT
BY
ALBERT CARLOS BATES, M. A.

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THE  
CHARTER  
OF  
CONNECTICUT  

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A STUDY

BY  
ALBERT CARLOS BATES, M. A.  
*Librarian of the Connecticut Historical Society*



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THIS PAPER, the outcome of more than thirty years study of the subject, was read in part at a meeting of the Connecticut Historical Society on February 2d, 1932. At its next meeting, a month later, the Society voted to print the paper in its entirety. It has not been the author's object in preparing this paper to promote either argument or controversy. His purpose was to set forth facts, theories and beliefs as he saw and interpreted them from existing evidences and at the same time to give to others opportunity to correct certain current, manifest errors of both the printed page and the spoken word.

A. C. B.

THE INVESTIGATOR, however, must have the courage of conviction if he would undermine the foundations of any tradition which, from time immemorial, has been held dear by a multitude of believers.

*The Hiding of the Charters*  
by CYRUS SHERWOOD BRADLEY

The word charter means primarily a writing. Thus, the charter of Connecticut was the formal writing, the letter, in which the king by virtue of his royal prerogative gave or granted certain rights and privileges, therein expressly described, to certain of his subjects therein named and to their associates and successors. These subjects were at the same time by the same royal prerogative constituted a company, "one Body Corporate and Politique in fact and name." This formal letter, usually called a charter, was not a secret document but was public, open to all, or "patent;" the king stating in it that "wee have caused these our Letters to bee made Patent." And as further and final evidence of its authenticity it bore the great seal of the realm of Great Britain. Thus the terms were used interchangeably; the letters patent was a charter, and a charter was the letters patent. Loosely used, the term patent or charter was often applied to many formal documents other than royal patents.

The use of these formal letters patent or charters goes back to a remote antiquity, and with the passing of centuries many customs have grown up relating to their granting and use which have become sanctioned and recognized until they have come to have almost the force of law. Printed accounts of these customs and usages are not readily found, and a few statements pertaining to some of them may be of interest.

English charters of three centuries ago, like all formal documents of that period, were written upon parchment; and blank parchments for deeds, charters and other writings, with an engraved border, usually consisting of elaborate scroll work, were kept prepared to be sold and used as needed. When it became necessary to use more than one sheet of parchment the sheets were placed one above the other, the first sheet at the bottom, and were fastened together at the lower margin. This frequent necessity for fastening together two or more

sheets probably gave rise to the custom of folding over the lower margin of the first or under sheet onto its upper surface. This would make a fold in which the lower edges of the other and later written sheets would rest. Through holes or a slit near the bottom in both parts of this folded sheet and in the sheets that it inclosed a cord or narrow strip of parchment was passed which served to officially fasten the sheets together. So fixed was this custom that documents consisting of but a single sheet of parchment were folded at the bottom and twice pierced with the cord or parchment strip. It is said that a charter or similar writing was not considered as valid and binding unless folded and pierced as above described.

The wax seal, which in early times was made to adhere to the document itself, was later attached to the cord or parchment strip. This gave opportunity for the impression of a design on each side of the round flat seal. At first the color of the wax and of the cord varied, perhaps with the taste or convenience of the user; but later the color of each came to have a special significance. In England at the period in which we are interested charters and other acts having a perpetual effect were sealed with green wax; those having a temporary effect were sealed with yellow wax. The seal was impressed around a doubled cord of red and green silk or perhaps of red and white silk, or around a doubled strip of parchment; the cord or parchment strip passing through all of the sheets of the document to which it was attached. The English called this strip a label, the French a queue. The same is true today, at least as to the colors of the wax used and the manner of its attachment. The patent of a peer would now be sealed with green wax, a knight's patent with yellow wax. The silk cord was made of two twisted strands, one of either color. The dies for the great seal which is used on royal charters and similar documents are broken after the death of a sovereign.

"The whole process of passing Letters-Patent under the Great Seal is . . . very complicated, and differing according to the nature of the documents," says Palgrave. The following brief notes on the process as it was carried out two or three centuries ago are taken chiefly from a description read before



the Massachushtts Historical Society in 1869 by the late Charles Deane.

A petition for a charter or patent is first addressed to His Majesty in Council. Accompanying or attached to this petition is a draft of the proposed charter. The petition is referred for consideration to the committee of the Council known as the Board of Trade and Plantations. This Board favoring the application, the draft is officially referred by them to the Attorney General and Solicitor General for their joint opinion. This being favorable, the Board reports to His Majesty in Council recommending the granting of the charter. The king approving of this recommendation makes an order commanding one of the Secretaries of State for the Colonial Department to prepare a warrant directing the Attorney General and Solicitor General to prepare the bill for passing the charter. This bill, known as the "King's Bill," is prepared in the "Patent Bill Office," or "Patent Office," which is under the authority of the Attorney General and Solicitor General. The bill as here prepared contains the exact wording of the charter as it will finally pass the great seal; except that it lacks the royal titles or "style" at the beginning and the attesting clause at the end. Three copies of this bill are prepared and engrossed on parchment. One is sent to the Privy Signet Office; another to the Privy Seal Office. To the third a "Docket" is added at the bottom addressed to the king and signed by either the Attorney General or Solicitor General. This docket is a brief memorandum explaining the nature and contents of the document to which it is appended. This copy is forwarded to the king who, presumably after having examined the docket, affixes his signature at the top of the bill. The royal signature is always placed at the top, never at the bottom, of official documents. And this signing of the "King's Bill" is the only occasion for the appearance of the king's autograph during the formalities attending the granting of a patent.

This bill bearing the royal signature is then forwarded to the Privy Signet Office, where it finally remains. The copy already received from the Patent Office after being compared with the King's Bill, is completed by the addition of the Privy

Signet and probably also of a clerk's signature, and becomes the Bill of Privy Signet which is addressed and forwarded to the Privy Seal Office where it finally remains. The Privy Signet was a seal used in place of the royal signature in the authentication of royal grants. The office was abolished in 1838.

Upon receipt of the Bill of Privy Signet at the Privy Seal Office, the copy already in that office is compared with it and, if found correct, is completed by the addition of the formal parts at the beginning and end and the affixing of the Privy Seal by the officer known as the Lord Privy Seal. The document thereupon becomes the Writ of Privy Seal. It is then taken to the Chancery by a representative or agent of the party in whose behalf the charter is to be issued. Here the Lord Chancellor, who is also in theory the official Keeper of the Great Seal, signs a memorandum called the "Recipe" at the foot of the document, and this signature is the authority to his officers for preparing the Letters Patent and attaching the Great Seal to the same. The actual engrossing of the Patent is done by an officer known as the Clerk of Patents, who at the end indicates the authority under which the Chancery has ordered the Patent to be drawn out, and attests it with his signature. The most common formula is "By writ of Privy Seal" or its Latin equivalent. Lastly the Great Seal is attached by an officer of the Chancery known as the "Sealer" or "Lord Keeper of the Great Seal"; the Chancery fees are paid to still another officer, the "Clerk of the Hanaper," and the patent is complete.

It is worthy of note that all of the formal documents having to do with the issuing of the charter of Connecticut are still preserved in the various offices. A fact that is not true of the charters of any other American colony.

Any sketch of the charter of Connecticut must be prefaced by at least a short account of the document known as "The Warwick Patent." On March 19, 1631/32, Robert Rich, second Earl of Warwick, conveyed by a deed or patent to sundry Lords and Gentlemen therein named and to "their heirs and assigns, and their associates forever," a tract of land in New England extending from Narragansett River one hundred and twenty miles south-westward along the sea

coast and westward "to the south sea." The upper or northern bounds of this tract were scarcely defined. This document is frequently spoken of as "the old patent of Connecticut" or the "Warwick Patent." As to the source or validity of Warwick's title to the land, we need not concern ourselves. There is no record of the tract having been granted to him. He had been president of "The Council established at Plymouth in the County of Devon, for the planting, ruling, ordering, and governing of New England in America," to which King James I by the Great Patent of New England, on November 3, 1620, had granted an extensive territory. It has been stated that The Council in 1630 granted the whole of this territory to Warwick. The tract conveyed by the Warwick patent was embraced within this territory. His title appears to have been looked upon as good at that time. Thomas Lechford writing of Connecticut in 1642 says, "These plantations have a patent." John Allyn, the Colony's secretary, in 1679 calls it "Connecticut first Charter." John Talcott, for twenty-five years treasurer of the Colony, who died in 1688, calls it "the old Pattent Belonging to Connecticut." In September 1648 "the Copy of the said patent was Now produced & read" before the Commissioners of the United Colonies. This patent, says the late Charles J. Hoadly, LL.D., "was simply a deed of feoffment of certain lands. It did not purport to convey any powers of government nor to create the patentees a corporation." "The grantees were simply joint tenants of the lands conveyed." Although not a patent in the strict sense of the word, this was an important document in the general nature of a patent, conveying as it did a considerable territory, and as such it is not unreasonable to credit the official statement that it was issued in duplicate.

Among the patentees were Lord Saye and Sele and Lord Brooke, for whom Saybrook is said to have been named, and Sir Richard Saltonstall. George Fenwick was one of those who in 1635 had become associated with the patentees, and Edward Hopkins appears also to have been one of the company. Commissions granted and agreements entered into by these patentees were signed by several of them "in our (their) own names, and the rest of the company," and were sealed with



their individual seals. In July 1635 they commissioned John Winthrop the younger, as governor of Connecticut for one year and agreed with him to build a fort at the mouth of the river. The same year they engaged Lion Gardiner of Holland to serve them for four years "in the drawing, ordering and making of a city, towns or forts of defense." Fenwick came to Connecticut in the spring of 1636, returning to England in the autumn of the same year, and leaving Gardiner in command of the fort then building at Saybrook to command the river's mouth. Whereupon Gardiner wrote to Winthrop: "It seems that we have neither masters nor owners, but are left like so many servants whose masters are willing to be quit of them." In 1639 Gardiner's term of service expired and Fenwick returned to Connecticut as agent for the patentees and took up his residence at Saybrook, his wife accompanying him from England. It had been expected that many settlers would be attracted to the river's mouth; but affairs of state in England at this time caused the patentees and others to forego their intended emigration and they practically abandoned their rights here under the patent. The late J. Hammond Trumbull, LL.D., says: "It is probable that before the close of 1643, most, if not all, of the patentees in England had abandoned their purpose of emigration to Connecticut. Mr. Fenwick, though he continued to act in behalf of 'himself and some noble personages by patent interested,' had become in fact the sole representative of the Saybrook company." Apparently despairing of any settlement being made at Saybrook by the patentees whom he represented, Fenwick on December 5, 1644, entered into an agreement with representatives of "y<sup>e</sup> Jurisdiction of Connecticott River" to transfer certain rights to them. By this agreement, and in consideration of certain rates or levies to be paid to him for the ten years next following, Fenwick made over to the Connecticut Jurisdiction "y<sup>e</sup> Fort att Sea Brooke with y<sup>e</sup> appurtenances," agreed that "all y<sup>e</sup> land uppon y<sup>e</sup> River of Connecticott, shall belong to y<sup>e</sup> said Jurrissdiction of Connecticott" and "doth allso promise y<sup>t</sup> all y<sup>e</sup> lands from Narragansett River to y<sup>e</sup> Fort of Sea Brooke, mentioned in a Pattent graunted by y<sup>e</sup> Earle of Warwicke to certaine Nobles and Gentlemen, shall fall in



under y<sup>e</sup> Jurissdiction of Connecticutt, if it come into his power." This provision Fenwick never did and probably never could fulfill.

Charles II was not proclaimed king of Great Britain until May 8, 1660; yet he ignored the Cromwellian interregnum and dated the year of his reign from the time of the execution of his royal father, January 30, 1649. The news of his accession doubtless reached Connecticut during the following summer, for at a meeting of such of the magistrates and deputies as could then be assembled, held at Hartford February 14, 1660/61, reference was made to "a former motion before winter;" and it was the decision of this meeting "y<sup>t</sup> it is necessary for this Colony to make a speedy addresse to his Majesty our sovereigne Lord Charles the second King of England Scotland France & Ireland, humbly to petition his Majesty for his favour, & for the continuance & confirmation of such priviledges & liberties as are necessary for the comfortable settlement of this Colony." The deputies were desired to "consult & consider" with their several towns in order that the matter might be settled at the next meeting of the General Court. This meeting was held the following month and the Court declared that it was "our duty and very necessary to make a speedy address" to the king, acknowledging loyalty and petitioning for grace and favor and for the continuance and confirmation of their privileges and liberties. At the next meeting, in May, Governor John Winthrop presented to the Court the draft of an address to the king which he had drawn up. A committee of nine was chosen, of which the governor, deputy governor and secretary were members, to complete the address and to "draw up the Petition to his Ma<sup>tie</sup> or any other L<sup>rs</sup> to any noble p<sup>r</sup>sonages in England, and al other matters respecting o<sup>r</sup> address, Petition or Patent." At the same meeting Governor Winthrop, "who speedily intends a voyage to England," was chosen the Colony's agent "in reference to o<sup>r</sup> Address & Petition to his Ma<sup>tie</sup>, or respecting our Pattent," to act under the committee's instructions and the advice of friends, presumably those in England. At the next meeting, on June seventh, the address and petition to the king as completed by the committee were approved, and

the Court added to the governor's instructions that if letters were found to be necessary to any other nobles or gentlemen in addition to those that had been named, he was to draw up and sign them in the name of the Colony, "and to draw vp and p'sent any further Petition in behalf of this Colony, to his Ma<sup>tie</sup>," if found necessary. In consideration of Winthrop's services "to further our welfare, in p'senting o'r Address & Petition to y<sup>e</sup> Kings Maiestie, and to improve his abilities to procure vs a Pattent," the Court set aside £500 for his charges and expenses. Thus armed and equipped with the necessary formalities and documents Governor Winthrop with "no small motive" sailed from Hartford to New Amsterdam and embarked on the Dutch ship "De Trouw," which Governor Peter Stuyvesant had had held for him, leaving that port on July 23rd, 1661. The probable reason for Winthrop's sailing on his mission from New York rather than from Boston was that the Massachusetts charter was then in abeyance and he wished to avoid any entanglement with friends of that government who might desire his aid.

Now that he is on the high seas, let us enumerate and briefly examine the documents which Winthrop carries with him. First there are his instructions for presenting the address and the petition to the king "and also for procuring a Pattent for this Colony." By these he was to ask the advice of Lord Say and Sele, who during the previous year had been Lord Privy Seal; the Earl of Manchester, then Lord Chamberlain of the household; Lord Brooke, who like Lord Say and Sele was a grantee of the Warwick patent; Nathaniel Fiennes, Dr. Samuel Peck, and Mr. Floid "of y<sup>e</sup> Corporation," presumably other Warwick patentees. He was also to endeavor to procure a copy of the patent granted to those whom George Fenwick represented in his sale to the Colony. In case such copy could be procured he was to compare it with the Massachusetts Bay patent and endeavor to have "what is conduceable in both to the welbeing and future comfort" of the Colony inserted "in the Pattent granted and confirmed to this Colony." The persons whom it was desired should become patentees were named; the list including William Phelps, Robert Warner,



Robert Royce and Phillip Groues, whose names do not appear in the charter.

The address to the king, which is most fulsome in its expressions of loyalty, relates how their fathers and "some few yet alive" came over and settled under the "gratious L<sup>rs</sup> Pattents" granted to Massachusetts, but later removed "to y<sup>e</sup> great faire Riuer of Conecticut," thus enlarging His Majesty's dominions, where they "have ever since hid" and are "stil remaining free from illegal ingagements." They crave His "Ma<sup>ties</sup> goodnes and bounty in granting o<sup>r</sup> humble Petition, when we shall have liberty to p<sup>r</sup>sent y<sup>e</sup> same by a person herewith sent from amongst vs."

The petition of the General Court of the Colony to the king, dated June seventh and signed by Daniel Clark, Secretary, is perhaps not as happily worded as is the address to the king. In it they state that "by reason of the calamities of the late sad times" they have not had opportunity to seek for and obtain from His Majesty such letters patent as might assure them of their liberties and privileges and encourage them to continue "in so great a worke of plantation." They further state that, besides the great charge of purchasing, building, fortifying "and other matters," they "have laid out a very great sum for the purchasing a jurisdiction right of Mr. George Fenwick, which they were given to understand was derived from true royal authority, by letters patent, to certain lords and gentlemen therein nominated." They state that their copy of "the aforementioned letters patent" is now lost, "either by fire at a house where it had been sometimes kept, or some other accident," and they implore the kings favor for "those liberties, rights, authorities, and privileges" which it granted "or which were enjoyed from those letters patent, granted to the Massachusetts plantation." Finally, they say: "May it please your majesty graciously to bestow upon your humble supplicants such royal munificence, according to the tenor of a draft or instrument, which is ready here to be tendered, at your gracious order."

The next two documents were letters: one dated June seventh and signed by Daniel Clark, Secretary, was to Lord Say and Sele, the first named of the Warwick patentees. This,

after referring to Lord Say and Sele's interest here "by virtue of patent power and authority," describes the desire of Mr. George Fenwick, who "took possession of Saybrook fort," and who threatened to sell to the Dutch, to make sale of the fort and the lands on the river; he saying "that he had power to dispose of the premises, the rest of the patentees deserting, it fell into his hands." Upon this the Colony had made "an agreement" with Mr. Fenwick and expended about £1600; but now have "not so much as a copy of a patent" nor any thing to ensure "the jurisdiction power and authority, which Mr. Fenwick had engaged to us." They therefore ask Lord Say and Sele to "countenance our enterprise" and give "advice and counsel" to Winthrop, their agent, "respecting our petition to the king's majesty" and the procuring of a new patent.

The draft of the second letter is without signature, date or address; but it was without doubt for the Earl of Manchester. It earnestly requests his favor "in countenancing and vshering into y<sup>e</sup> Kings Ma<sup>ties</sup> audience o<sup>r</sup> Address and Petition;" and its further tenor differs but little from that of the letter to Lord Say and Sele, although it is differently worded.

There may have been further letters to other Lords and Gentlemen carried by Winthrop, and it is certain that he took with him the two following documents. First a letter of credit for £500 issued by the Colony to be used by him in payment of the expenses of his journey and mission. Second an open letter signed by John Talcott the Treasurer pledging the payment by the Colony of the bills of exchange drawn against the letter of credit, and further guaranteeing that in case of any failure by the Colony he himself would become personally responsible for their payment.

Arriving in London, Governor Winthrop took lodgings on Coleman Street at the house of William Whiting, a merchant, whose father of the same name had been one of the early settlers of Hartford and a friend of Lord Saye and Sele. The governor's time must have been fully occupied, after he had become settled in the metropolis, with the business which he had in hand. He must meet those to whom he carried letters and no doubt others also who might have influence at court; must arrange to have the address which he carried and later

the petition presented to the king, and must obtain a personal audience with His Majesty. He evidently was advised that the petition which he brought with him was not in a form likely to meet with the royal approval; and acting on the authority delegated to him by the Colony had another drawn up which he signed. This petition bears internal evidence that it was written in England and not under the watchful eye of the governor. It was discovered among the British Archives some twenty-five years ago by Professor Charles M. Andrews and, so far as is known to the writer, has not previously been made public. It is as follows:

“To the Kings Most Excellent Ma<sup>tie</sup>

“The humble Peticōn of John Winthrop Esq<sup>r</sup> in the name and by Order of your Ma<sup>ties</sup> most Loyall, obedient and most dutifull Subjects the Colony of Conectecut in New England in all humility

“Sheweth

“That your Ma<sup>ties</sup> Subjects of the said Colony of Conectecut at their expence in the beginning of the late vnhappy Civil warr became lawfully seized of all the Maineland and Islands, Bayes, Harbours, Creekes, Fresh Rivers Rivelits Mines Mineralls Quarries of Stones &c with Right of Government in and over all the said Colony, Scituate and lying in the West and Southward parts of New England bounded on the East with the Norrgianset Bay, on the North with the South Line of the Mattechusetts on the South with the Sea, and thence Westward to the Pacifique Sea, comprehending all that part of your Ma<sup>ties</sup> Dominions Westward of the said Norriganset Bay called New England, to the Fortieth Degree of Lattitude, north from the Equator, all which they peaceably enjoyed in the right of the right Honorable the Lord Viscount Say and Seale and the Lord Brookes and other persons of Honour their Associates who were incorporated with the said Pattent about the twelfth yeare of the Reigne of Your Ma<sup>ties</sup> Royall Father of Blessed memory, Which Colony was settled in a Competent Measure by the said Originall Pattentees at their greate expence in Transporting Some hundred of Families, Cattle of all kindes and ffortifying the said Colony, in which Settlem<sup>t</sup> your Ma<sup>ties</sup> Peticōner was imployed in the Right



of the said Lords and their Associates the first Pattentees

“The said Lord Viscount Say and Seale Lord Brookes and their Associates the Lord Proprietors vnwilling to make further disbursements on the said Colony did by their Agent George Fenwicke Esq<sup>r</sup> one of the said Propriaters make sale of the said Colony to the Peticõner and the rest of the Colonie your Ma<sup>ties</sup> good Subjects for a very valuable sume of money who have since built severall Townes and Villages which the Inhabitants have ever since peaceably enjoyed by virtue of their Purchase from the first Pattentees.

“But soe it is, the Originall Pattent being lost in a Fatall Fire at Saybrook fort in the said Colony and the Duplicate being lost amongst those papers carryed beyond the Seas by the Lord Keeper Finch in the late Civill Troubles, Your Ma<sup>ties</sup> Peticõner has recourse (vpon your Ma<sup>ties</sup> happy restoration) to the Grace and Clemency inherent in your Princely minde, and most humbly prayes the Renual of the said Pattent vnder your Ma<sup>ties</sup> greate Seale.

“And yo<sup>r</sup> Ma<sup>ties</sup> Peticõner and all those concerned in the said Colony, as they are in bounden duty shall ever pray for your Majesty

“J Winthrop.”

The first or discarded petition to the king for a charter refers to “a draft or instrument, which is ready here to be tendered at your gracious order.” It is unlikely that more than a rough outline of the desired charter was drawn up in this country, and if it was to be laid before the king for his approval Winthrop must have obtained in England the services of some one who was familiar with the forms to be used in the writing of such a document.

As he had been instructed to do, Winthrop made search in England for a copy of the old patent which the Saybrook settlers had had and which the Connecticut settlers believed they had purchased from George Fenwick. In this he was successful, for among the papers of the late Governor Edward Hopkins he discovered a copy or transcript of the old patent, which he forwarded to the Colony. It is now among the State Archives and is indorsed thus at the top of the first page, perhaps in the handwriting of John Allyn:

“The cotype of the Patent for Connecticutt being the copy of that copy w<sup>ch</sup> was shewed to the people here by m<sup>r</sup> George Fenwick found amongst m<sup>r</sup> Hopkins paps.”

Let us now digress for a moment and consider what the writer meant or might have meant by this endorsement. It is unfortunate that the word “copy” is capable of so many and different definitions. I may speak of owning a copy of the “Saybrook Platform” printed in 1710 and say that the Yale Library owns another copy—meaning that each owns an original. Or I might say that there are two copies of the Connecticut charter, one in the State Library, the other in the Connecticut Historical Society—again meaning that there are two originals. But if I say that there is among the State Archives a copy of the Connecticut charter made by John Talcott, the meaning is entirely different. There the word copy is used in its strictest sense and means a transcript from an original. Now, in the endorsement just quoted, written perhaps by John Allyn, when he says that the document is “the copy of that copy” which Mr. Fenwick had, does he intend to say the transcript of that transcript; or does he mean the transcript of that one of the two originals which was at that time in Mr. Fenwick’s hands; the other original remaining in England? The latter rendering seems to me as likely to be the correct one as the former. We have the word of Governor Winthrop that one of the two originals was destroyed by fire at Saybrook, and if Mr. Fenwick had an original with him in this country, why should he show only a transcript to the people?

Lord Saye and Sele appears to have taken a deep interest in Governor Winthrop’s mission; but was in too feeble health to give active aid to it. He did, however, write to the Earl of Manchester asking him to give the governor “the best assistance he may.” He also recommended the governor to Mr. Jesup, “who, when we had the patent, was our clerk,” as the one best able to give information about it. It seems not improbable that Governor Winthrop visited Mr. Jesup and obtained from him that one of the original old patents which it was supposed had been carried “beyond the Seas by the Lord Keeper Finch,” which he (Winthrop) apparently, as

will be shown later, sent to Connecticut with the old transcript procured from among Governor Hopkins' papers.

Governor Winthrop left no record of his efforts in England for the procuring of our charter and no details have come down to us save one pretty story first told by Trumbull in his "History of Connecticut." This is that while in audience with the king he presented to His Majesty a ring that had been given to his grandfather by the king's father, Charles the first. This so touched his majesty that he readily granted the desired charter.

Whatever may have been the efforts put forth or the means used, Governor Winthrop was successful in procuring from King Charles II a charter for Connecticut, bearing date April 23, 1662, and which was completed and rendered effective by passing the seals on the tenth of the following month, as appears from the records of the Clerk of the Hanaper and as at once reported to the Colony by Winthrop. This charter was so liberal in its terms that it was almost a grant of freedom to the Colony. Two identical originals of the charter were made out by the royal authorities and delivered to Governor Winthrop. An abstract of the document follows:

"Charles the Second, By the grace of God, King of England, Scotland, France and Ireland, defender of the Faith, &c.; To all to whome theis presents shall come, Greeting: Whereas, by the severall Navigaçons, discoveryes and successfull Plantaçons of diverse of our loveing Subjects of this our Realme of England, Severall Lands, Islands, Places, Colonies and Plantaçons have byn obtayned and setled in that parte of the Continent of America called New England, and thereby the Trade and Commerce there hath byn of late yeares much increased, And whereas, We have byn informed by the humble Petiçon of our Trusty and welbeloved John Winthrop, John Mason, Samuell Willis, Henry Clerke, Mathew Allen, John Tappen, Nathan Gold, Richard Treate, Richard Lord, Henry Woolicott, John Talcott, Daniell Clerke, John Ogden, Thomas Wells, Obedias Brewen, John Clerke, Anthony Haukins, John Deming and Mathew Camfeild, being Persons Principally interested in our Colony or Plantaçon of Conecticut in New England, that the same Colony or the greatest parte



thereof was purchased and obteyned for greate and valuable consideraçons, And some other parte thereof gained by Conquest and with much difficulty, and att the onely endeavours, expence and Charge of them and their Associates, and those vnder whome they Clayme, Subdued and improved, and thereby become a considerable enlargement and addiçon of our Dominions and interest there, — Now Know yea, that in Consideraçon thereof, and in regard the said Colony is remote from other the English Plantaçons in the Places aforesaid, And to the end the Affaires and Busines which shall from tyme to tyme happen or arise concerning the same may bee duely Ordered and managed, Wee have thought fitt, and att the humble Petiçon of the Persons aforesaid, and are graciously pleased to Create and Make them a Body Pollitique and Corporate, with the powers and Priviledges herein after mençoned; And accordingly Our Will and pleasure is, and of our especiall grace, certeine knowledge and meere moçon, wee have Ordeyned, Constituted and Declared, And by theis presents, for vs, our heires and Successors, Doe Ordeine, Constitute and Declare That they, the said John Winthrop [and the others mentioned above] and all such others as now are or hereafter shall bee Admitted and made free of the Company and Society of our Collony of Conecticut in America, shall from tyme to tyme and for ever hereafter, bee one Body Corporate and Pollitique in fact and name, by the Name of Governour and Company of the English Collony of Conecticut in New England in America.”

From this point on the charter follows the customary form of such documents and contains the following provisions and grants.

1<sup>st</sup> The colonists were to have all the rights at law &c. “as our other liege People of this our Realme of England.”

2<sup>d</sup> To have a common seal, a governor, deputy governor, and twelve assistants to be elected and chosen out of the freemen of the said company.

3<sup>d</sup> To have two annual Assemblies, in May and October of each year, with one or two members chosen by each town in the Colony.

4<sup>th</sup> To have power to constitute courts of justice and administer oaths of supremacy.

5<sup>th</sup> To have power "from tyme to tyme to Make, Ordaine and Establish All manner of wholsome and reasonable Lawes, Statutes, Ordinances, Direcçons and Instrucçons, not contrary to the lawes of this Realme of England."

The tenure under which the lands of Connecticut were granted in this charter was "as of our Mannor of East Greenwich, in Free and Comon Soccage, and not in Capite nor by Knights Service, Yeilding and Payinge therefore, to vs, our heires and Successors, onely the Fifth parte of all the Oare of Gold and Silver which from tyme to tyme and att all tymes hereafter shall bee there gotten, had or obteyned, in lieu of all Services, Dutyes and Demaunds whatsoever." This tenure of East Greenwich was the most free of any in England.

The charter of Rhode Island, granted a few weeks after that of Connecticut, contains the following, which is an alteration of the bounds named in the Connecticut charter, and which was the cause of much controversy between the two colonies.

"Any graunt, or clause in a late graunt, to the Governour and Company of Connecticutt Collony, in America, to the contrary thereof in any wise notwithstanding; the aforesayd Pawcatuck river haveing byn yeilded, after much debate, for the fixed and certain boundes betweene these our sayd Colonies, by the agents thereof; whoe have alsoe agreed, that the sayd Pawcatuck river shall bee alsoe called alias Norroganset or Narrogansett river."

The boundaries of Connecticut as named in the charter were, on the north the south line of Massachusetts; on the east the west line of Rhode Island at the Narragansett River; on the south Long Island Sound, and "to the South Sea on the West parte." This western boundary made Connecticut include portions of what are now New York, Pennsylvania, Virginia and Ohio, and thence westward.

After having secured the grant of a charter for Connecticut, notified the Colony by letter that it had passed the seals, and come into actual possession of the two identical precious documents, Winthrop evidently sought a safe way of trans-

mitting one of the charters to the Colony, and in this fortune favored him. It was expected in Connecticut that Winthrop would at once return bringing the charter with him; but such was not his plan. The two agents of Massachusetts, Simon Bradstreet and Reverend John Norton, who had been sent over in the hope of making their own charter more secure, were, however, about to return and to them Winthrop undoubtedly confided the Connecticut charter. They arrived at Boston in the ship "Society," Christopher Clark, master, on Wednesday, September 3d, 1662. The next day the annual meeting of the Commissioners of the United Colonies opened in Boston and its sessions were continued until the sixteenth of the month. Attending that meeting as delegates were two Connecticut magistrates, both residents of Hartford and both named in the charter as members of the corporation, Samuel Wyllys and John Talcott, the Colony's treasurer. What more fitting than that the charter should be handed over to them. It was brought to a meeting of the Commissioners where, as appears by their records, "His Mat<sup>ies</sup> Lres Pattents graunted unto seuerall Gentlemen of Conecticut vnder the broad seale of England was p<sup>r</sup>sented and read." The two delegates from Connecticut undoubtedly brought the charter with them when they returned to Hartford after the close of their meeting in Boston.

The first entry on the record, following the names of those present, of the meeting of the General Court of Connecticut held October 9th, 1662, is as follows:

"The Pattent or Charter was this day publicuely read in audienc of y<sup>e</sup> Freemen, and declared to belong to them and their successors and y<sup>e</sup> freemen made choice of Mr. [Samuel] Willys, C[apt]: John Talcot and L<sup>t</sup> John Allyn to take the Charter into their Custody, in behalf of y<sup>e</sup> freemen, who are to haue an oath administered to them by the Generall Assembly, for y<sup>e</sup> due discharge of the trust committed to them." It is worthy of note that this committee was appointed by "y<sup>e</sup> freemen" and not by the General Court.

The charter was at once placed in the possession of Lieutenant John Allyn, who became secretary of the Colony the following year, and he probably continued to be its actual



custodian until the time that Andros assumed the government.

Governor Winthrop left England on his return voyage in April 1663, some time between the 9th and 29th of the month. With favorable wind and weather he should have reached Boston in June. He mentions his "late arrival" there when in Hartford on July 18th "upon a visit to my (his) family and friends." Although on that date he answered one letter in an official capacity, yet he distinctly states therein that he has not yet assumed the duties of his office as governor and will not do so until the next session of the Assembly. And he also states that his business necessitates his speedy return to Boston, where he will probably remain until after the session of the Commissioners of the United Colonies in September. His name is not among those who were present at the special session of the General Court opened on August 19th following; Deputy Governor John Mason heading the list of officials, and we know that he was in Boston while the Commissioners were in session there. It was at this August session that the members, assuming that as the governor had returned he had brought the other charter with him, passed the following, which has proved such a stumbling block to students of the history of the charters, viz.:

"This Court doth desire that those Freinds appoynted to keepe the Charter do also receiue the Duplicate into their custody, and keep it in behalfe of the Freemen of this Corporation; and the Worshipfull Governour is desired to deliuer the s<sup>d</sup> Duplicate to the said Friends, or either of them."

We, however, now know what the members of that Court did not know, that Governor Winthrop did not bring with him this duplicate or second charter, but left it in London in the hands of James Porter, a merchant, son of John Porter of Windsor. This is proved by the following extract from the Colony's instructions to William Whiting, their agent, dated August 24th 1686:

". . . you are to have y<sup>e</sup> duplicate of o<sup>r</sup> Charter ready to be exhibited in Court, if need be, (w<sup>ch</sup> by Governor Winthrop was left w<sup>th</sup> Mr. James Porter of London, and since by us he was ordered to deliver it to you) . . ."

The governor was present at the next meeting of the

Court, the regular October session, and no doubt satisfactorily explained at that time his reasons for leaving one of the charters in London. For at this session a formal vote of thanks was passed as follows: "This Court doth thankfully acknowledge the fauor the Gouern<sup>r</sup> hath shewed to this o<sup>r</sup> Colony, in his great paynes in procureing o<sup>r</sup> Charter of his Ma<sup>tie</sup> o<sup>r</sup> Soueraigne, and doe hereby discharge him from those seuerall summes of mony that he hath rec<sup>d</sup> of the Colony."

Thus we find the two charters located as follows: The one in the hands of a committee appointed by the General Court of Connecticut from October 9th, 1662, certainly until, as we shall later see, it is left by a member of that committee in its box on a table in the meeting place of the Court in June, 1687, and presumptively until it is produced before Sir Edmond Andros when he came to take over the government. The other left by Winthrop in England in the care of James Porter in April, 1663, and, as will be shown, there remaining until he, Porter, was ordered to deliver it to William Whiting, after that gentleman's appointment as the Colony's agent in 1686, and until after Fitz John Winthrop's appointment as agent in 1693.

Let us now turn back for a moment to the period between the time when the charter sent over by Winthrop was received in Connecticut and the time of his return the following spring, and note the letter of thanks sent to him. Sections of the letter having to do with the payments against his letter of credit, with the attitude of the towns along the shores of Long Island Sound and with purely personal matters are omitted. It is as follows:

"Windsor, No<sup>br</sup> 17. 1662.

"Right Wor<sup>ll</sup> — The sedulous and indefatigable paines and trauailes that yo<sup>r</sup> wor<sup>p</sup> have spent in y<sup>e</sup> occasions of this poor Colony we now can certainly affirme have bene seconded w<sup>th</sup> memorable issues and effects, through the concurrence of divine providence and benediction to y<sup>e</sup> great reioyceing of the hearts of yo<sup>r</sup> friends and servants the members of this Corporation. And we can doe noe less than with all readiness of spirit return o<sup>r</sup> acknowledgment thereof w<sup>th</sup> all respective gratulations to yo<sup>r</sup> Wor<sup>p</sup>. We haue receaued the Chart<sup>r</sup>, the

duplicate and the old Coppy of y<sup>e</sup> former Charter, well approved and liked by all. . . Our earnest expectation and longing is to see yo<sup>r</sup> presence amongst us and to enioy yo<sup>r</sup> helpfulnes in the place that Gods providence hath called Yo<sup>r</sup> Wor<sup>p</sup> vnto in point of Gouverm<sup>t</sup> being chosen Gouverno<sup>r</sup> for this Years to Conecticut Col: or Corporat: . . . The Assistants w<sup>th</sup> an vnanimous consent p<sup>r</sup>sent their Cordiall respects to yo<sup>r</sup> Wor<sup>p</sup> earnestly beseeching yo<sup>r</sup> speedy returne, still desireing to be mindfull of yo<sup>r</sup> Self and yo<sup>r</sup> affaires in o<sup>r</sup> prayers.

“Subscribeing: Yo<sup>r</sup> friends & Servants The Assistants of Conn: Collo: by their order Subscribed.

“ Daniel Clark Sec<sup>r</sup>”

This was certainly a sincere and appreciative letter and must have rejoiced the heart of the governor when it came to him as a New Year's greeting, although mayhap its receipt was somewhat after the first of the year.

A question arises upon the reading of this letter. What did Secretary Clark mean when he wrote “We haue receaued the Chart<sup>r</sup>, the duplicate and the old Coppy of y<sup>e</sup> former Charter?” They had received a few weeks previously one of the two original charters granted earlier in the year; but the other original of the same date remained in Winthrop's hands in England, they expecting that he would bring it with him on his return. So the words “the duplicate” cannot have reference to the charter of 1662. The expression “the old Coppy of y<sup>e</sup> former Charter” can refer to no other than “The cotype of the Patent for Connecticutt . . . found amongst m<sup>r</sup> Hopkins paps” and now preserved in the State Archives. But what of the expression “the duplicate?” In the opinion of the writer, this has reference as has the expression “the old Coppy” to “y<sup>e</sup> former Charter,” that is to the Warwick Patent, so-called, the deed received by the joint grantees from Robert, Earl of Warwick, in March 1631/32. This deed, according to Governor Winthrop, was made out in duplicate, that is in two identical documents. Winthrop in his petition to the king states that one of these was destroyed by fire in this country, presumably in the burning of Saybrook fort. He may be reasonably presumed to have had knowledge of this as a fact. He also states that the other one, “the Duplicate” as he calls it, was lost amongst



the papers carried from England by Lord Keeper Finch. Of this he could have had only presumptive or at best hearsay evidence, for surely no list of the documents carried away ever was or ever could have been compiled. Is it not entirely within reason to suppose that this second original, "the duplicate" as he calls it, of "y<sup>e</sup> former Charter," which was supposed to have been carried out of England, was found by Winthrop, possibly with clerk Jesup, or it may be among Governor Hopkins papers, and by him sent to Connecticut along with "the old Coppy." The fact that the old patent is not known to be now in existence does not necessarily militate against this assumption. It was of no import and could have then had only a sentimental value. In those days such documents were not as highly valued or as carefully preserved as they are today. Witness the fate of one of the Connecticut charters of 1662. Even the old copy which Winthrop sent over was not known to be preserved among the State Archives until less than ninety years ago.

In 1898 Hubert Hall, a well known antiquary of London, communicated to this Society a discovery he had recently made relating to the Connecticut charters. This was an extract from the "Accounts of the Clerks of the Hanaper, who took the office fees from grantees in respect of such Patents." The original entry is in Latin; but translated and with a few abbreviations extended it reads as follows:

|                                                                                                                                                               |                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| "Saturday, the tenth day of May (1662)                                                                                                                        |                                         |
| "For the Charter of the Governor and Company<br>of the Colony of Connecticut in New Eng-<br>land in America of grant to them and their<br>successors. . . . . | viiij <sup>li</sup> . ix <sup>s</sup> . |
| "For the fee thereupon . . . . .                                                                                                                              | v <sup>li</sup>                         |
| "For the Duplicate Charter of the same letters<br>patent, . . . . .                                                                                           | xx <sup>s</sup> . iiij <sup>d</sup> ."  |

This entry proves conclusively that the charter was not issued in triplicate, as some have suggested; but only in duplicate. A remark here as to the use of the word "duplicate." It is not expected or intended to single out or identify either one of two like objects, in its ordinary usage either today or in former times. Its sense is "the other," the one not in hand

when the reference is made. Either one is "the duplicate" to the person having possession of the other. That this is the true meaning as regards the two charters is proved by the wording of the documents themselves. Each of them contains the identical expression "these our letters Patent, or the Duplicate or Exemplification thereof." So it must be kept in mind that any mention of "the duplicate charter" is simply a reference to the other charter. In every instance we are able to identify which of the two charters is referred to when "the duplicate" is mentioned. The word "exemplification" as here used is practically a synonym of "duplicate".

It chanced that in the first use of the expression, in the records of the Clerk of the Hanaper, identification of the one there called "the duplicate" is distinctly proven. This record notes a charge of above eight pounds for the granting of, and a fee of five pounds for affixing the great seal to one of the charters, and a charge of above twenty shillings for the other, "the duplicate" charter. There are a number of early copies, both in manuscript and printed, which contain at the end, below or after the name of "Howard," the clerk who signs the charter, the words "Per fine five pounds." This can only refer to the fee of that amount and identifies the charter to which those words are affixed as the first of the two to receive the great seal of the realm. It follows that the charter which does not have these four words at the end is "the duplicate," "the other," the second to receive the great seal.

There is still another proof by which it can be determined from which of the two charters early copies were made. Near the end of the document is the phrase "... wee of Our more abundant grace. . . ." In engrossing one of the charters the writer accidentally omitted the word "more" from this sentence. Discovering his error he inserted the word between the lines in very small letters and without the usual caret to call attention to the interlineation, which appears above the line. As the absence of the word "more" does not materially alter the sense, the document could easily be copied without noting the interlined word, and it was in fact so copied. One manuscript copy owned by the Connecticut Historical Society which omits the word "more" and has at the end the words



"Per fine five pounds" is in a small volume which also contains Latin disputations as well as the date 1663. This copy, it was thought by the late Reverend William DeLoss Love, Ph.D., might have been made by some student from Connecticut who was attending Harvard College at the time the charter was exhibited in Boston soon after it was brought to America and before it had reached Connecticut. The writer has seen two other unofficial early manuscript copies, apparently in handwriting of the seventeenth century, one of which omits this word "more" and both have at the end the words "Per fine five pounds." Among the State Archives is a copy made and certified as "a true Coppye" by John Talcott, who died in July 1688, which has at the end the words "Per fine five pounds." The same peculiarities of omitting "more" and adding "Per fine five pounds" also appear in the earliest official printing of the charter by the Colony in 1718. Later printings by the Colony in 1729, 1750, 1754, 1769 were perhaps copied from that of 1718, as the word "more" is omitted in each of them. The latest copy known to have been made from this charter was in connection with the Susquehannah Case and is certified by George Wyllys, Secretary of the Colony, under date of October 30, 1782. This has at the end the words "Per fine five pounds;" but the careful copyist has written the word "more" in its proper place without interlineation. In the margin opposite this word is a heavy check mark, apparently indicating that the presence of the word had been questioned, perhaps in comparing and checking it with a printed copy previous to its certification. The charter, now sadly imperfect, which is in the rooms of the Connecticut Historical Society is the one which still shows the word "more" in a fine interlineation and which, it follows, must have had at the end the words "Per fine five pounds" and so is proved to be the first one to receive the great seal, and the first one to be received in this country. The other charter, complete except for the loss of the silk cord with its attached seal, which is now exhibited in the Memorial Hall of the State Library and Supreme Court building has the word "more" in its proper place without interlineation and does not have at the end the words "Per fine five pounds," thus proving

that it is the second one to receive the great seal, the one referred to in the records of the Clerk of the Hanaper as "the duplicate."

It would seem from the foregoing that sufficient evidence has been produced to show that all known early manuscript copies of the charter were made from one and the same original, and that that original was the one which bore the words "Per fine five pounds" and on which the word "more" is interlined. This original is the one the remaining portion of which is now in the rooms of the Connecticut Historical Society. These manuscript copies would naturally have been made when the charter was new to the people, when they had but recently received the privileges and powers which it granted to them and they wished to know just what these rights were. And such apparently is the case. One copy must have been made before the end of July 1688. Another, it is thought, may have been made in September 1662. The others are all in an early style of handwriting.

So long as King Charles II continued on the throne, all went well, in a political sense, with Connecticut; but as soon as he was succeeded by King James II matters political took on a different aspect. The new king, seconded by persons working in his interest, undertook to annul so far as possible the various charters that had been granted by his predecessor. In pursuance of this course of action complaints were made against Connecticut by Edward Randolph, claiming that the Colony had acted contrary to the laws of England and resulting in the issuing of two writs of quo warranto against the Colony, dated apparently in July and October 1685 and returnable in London in November 1685 and April 1686 respectively. Randolph was appointed secretary of the new government of New England and the writs were given to him to bring to this country and serve. Arriving at Boston in May 1686, Randolph wrote two letters to Governor Robert Treat and the Council of Connecticut stating that he had with him the two writs against the Colony and that "his Ma<sup>tie</sup> intends to bring all New England under one Governem<sup>t</sup> and nothing is now remaineing on yo<sup>r</sup> part but to think of an humble submission and a dutifull resignation of your charter,"

and he urges "an humble submission," that he might not be forced to serve the writs. Upon receipt of these letters the Council sent a reply to Randolph, dated June 11th, in which they say "we cannot tell w<sup>t</sup> return to make to yo<sup>r</sup>self" concerning the quo warrantos; but "that it is our duty and shall be our endeavour to approve our selves his Maj<sup>ties</sup> faithfull and loyall Subjects, ready to observe what we shall understand to be our duty." A meeting of the General Court was held on July 6th when an "humble Petition and Adresse" to the king was prepared, in which upon "bended knees" they "earnestly beseech" their "dread Sovereigne" that they may be continued in "the full and free enjoyment" of all their "liberties and properties as formerly."

Not receiving the desired submission and surrender of their charter, Randolph in person served the two writs on Major John Talcott, an Assistant, and Captain John Allyn, an Assistant and Secretary, soon after midnight on the morning of July 21st, 1686. He also met Governor Treat, who treated him with great respect, and Captain James Fitch, another Assistant. It was perhaps only then that the colonial authorities learned the reason for Randolph's anxiety for their peaceful surrender, namely, that the dates for the return of both writs had already passed, even before their arrival on these shores, and that consequently the writs were void through lack of service. Randolph spent "much tyme" in endeavoring to learn "wheither they would Surrender or send over an Agent instructed to make their defence." He says further in his report to Andros: "I find them very indifferent wheither they surrender their Charter or suffer his Ma<sup>tie</sup> to take it by processe at law."

Another session of the General Court was held on the 28th of July at which a second "humble Petition and Address" to the king and a "paper of reasons" for continuing Connecticut as a distinct colony were voted and prepared. In this petition, dated August 24, they "humbly beg and pray" for a continuation of "all those priviledges, liberties and properties granted and conferred upon us by our late gracious Sovereigne." They also vote to appoint an agent or attorney "to manage o<sup>r</sup> affaires in England." William Whiting, a merchant of



London, although a native of Hartford, was chosen for this position. The instructions sent to him, dated, as is the petition, August 24, 1686, are detailed and explicit. In them he is directed that if the serving of the writs or the receipt of the letter of notification, "although *post diem*," binds them to an appearance at a later term of court, he is "to appear with yo<sup>r</sup> counsell to mannage, plead and defend us" for the purpose of "defending our Charter by your answer & pleas to the writ or writs y<sup>t</sup> either are or may be against us in anie of his Ma<sup>ties</sup> Courts at com̄on law or chancery." Continuing, the instructions say: "and if to make answer by what right wee have, use and enjoy such priviledges, immunities and franchises as are in gener<sup>ll</sup> mentioned in y<sup>e</sup> said writs of Quo Warranto, you are to have y<sup>e</sup> duplicate of o<sup>r</sup> Charter ready to be exhibited in Court, if need be, (w<sup>ch</sup> by Governor Winthrop was left w<sup>th</sup> Mr. James Porter of London, and since by us he was ordered to deliver it to you): and all good pleas in law upon the same faithfully made on our behalves, takeing notice that o<sup>r</sup> Charter or Lett<sup>rs</sup> Patents granted us by his late Maj<sup>ty</sup>, Charles the Second of blessed memory, in the fourteenth yeare of his reigne, runs expressly to us, the Governo<sup>r</sup> and Companie and o<sup>r</sup> associates for ever, and to be interpreted in every part of it to our best advantage."

We know that two and only two original charters for Connecticut were issued and that Winthrop sent one of them to the Colony soon after he received it in 1662. The letter already quoted definitely settles the location of the other original, "the duplicate," until August 24, 1686, almost a quarter of a century after it was issued. In the face of his instructions to defend it against any writs "y<sup>t</sup> either are or may be" and to have it "ready to be exhibited in Court, if need be," it would be absurd to suppose that within a few months or a year at most, Whiting would have sent this original charter to the authorities in Connecticut, especially when they were then in possession of the other original and the writs of quo warranto were still pending.

The two previous writs having failed, a third writ of quo warranto, dated October 23, 1686, was issued against Connecticut, forwarded to Edward Randolph in Boston, and

served on Governor Treat by Joseph Cowell, a special messenger, "y<sup>s</sup> 28<sup>th</sup> of December, 1686, at eleven of y<sup>e</sup> clock at night." The appearance day for the return of this writ at the court in London was February 9, 1686/7. Accompanying the writ were letters from Randolph and from Sir Edmund Andros, who had only reached Boston from England on December 19th in the "Kingfisher," a fifty gun ship. The former says "a door is yet open to you," and that "You have no way to make yourselves happy but by an early application to his Excellence;" the latter states that "I am commanded and authorized by his Ma<sup>ty</sup>, at my arrival in these Parts, to receive in his name the surrender of your Charter (if tendered by you) and to take you into my present care and charge, as other parts of the Government."

Those in authority undoubtedly now recognized that the loss of the charter seemed imminent and the situation desperate. A General Court was called and held January 26, 1686/7. The records of this Court touch but lightly upon the matters which must have been uppermost in the mind of every member. The Court made grants of all the vacant and hitherto ungranted lands in the Colony among the towns of Hartford, Windsor, Wethersfield, Middletown, Farmington and Killingworth. This was to forestall the possibility of these lands being granted later by other authority upon a less favorable tenure, in case of the loss of the charter. It was also left with the Governor and Council "to take care to doe what is requisit to be don . . . in refference to o<sup>r</sup> affayres in England and the last Quo Warranto served on us." Acting under this authority four letters dated January 26 were sent in the name of the Court. One was to William Whiting, the Colony's attorney, directing him to appear in their behalf in the matter of the third quo warranto, although the day for appearance would have passed before the letter could come to his hand. Inclosed with this was a letter to the Earl of Sunderland, principal Secretary of State. In this they recount the serving of the first two writs, the appointment of Whiting as their attorney and the sending of an address to the king; and tell of the receipt of the third writ, to which by reason of their remoteness they are unable to make suitable return, but have requested Mr. Whiting to

appear in their behalf "if we must come to answer." Finally, they say that "we are heartily desirous that we may continue in the same station that we are in, if it may consist with his princely wisdom to continue us so: But, if his Majesty's royal purposes be otherwise to dispose of us, we shall, as in duty bound, submit to his royal commands; and, if it be to conjoin us with the other colonies and provinces under Sir Edmund Andros, his Majesty's present Governor, it will be more pleasing than to be joined with any other province." This expression of a preference, in case of necessity, was construed by the royal authorities as a surrender of the Colony's rights and no further action was taken by them upon the third writ of quo warranto.

Sunderland evidently laid the Colony's letter before the Committee of Trade and Plantations, who on June 18th made the following report to the Council Board:

"May it please your Majesty,

"Wee haue considered a letter directed to the Right Hon<sup>ble</sup> the Earle of Sunderland from the Generall Court of your Majesty's Colony of Conecticut in New England, wherein they represent their desires to continue in the same Station they are at present, if it shall so please your Majesty, But that if your Majesty shall thinke fit otherwise to dispose of them, they do in all duty declare their readines to submit to your Royall commands; Hoping that your Majesty may be more enclined to annex them to the Government of New England, then to any other, Whereupon Wee most humbly offer our opinion, That your Majesty be pleased to send your instruccions to Sir Edmond Andros, forthwith to signify your Majesty's good liking and acceptance of their dutifull Submission, and to take them under his Government; in such manner and under the same regulations as are directed by your Majesty's Commission and Instructions to Sir Edmond Andros, for the good government of the other Colonys; Assuring them of your Majesty's particular regard and royall protection, And that he do admit and cause to be sworne of your Majestys Councill in New England, Robert Treat Esq, the present Governor and John Allen Esq, the present Secretary of Con-



ecticut, for the better carrying on your Majesty's Service in that Colony.

"All which is most humbly submitted."

Soon after, probably on the day following:

"His Majesty was pleased to approve of the said report, and did Order, That the R<sup>t</sup> Hon<sup>ble</sup> the Earle of Sunderland, Lord President of the Councill and principall Secretary of State, do cause instructions to be prepared for his Majesty's royall Signature, according to the said report, and transmitted to Sir Edmond Andros, for taking the said Colony of Conecticut under his Government. And requiring him to cause Robert Treat Esq, the present Governor, and John Allen Esq, the present Secretary of Conecticut, to be sworne and admitted of his Majesty's Councill of New England, for the better carrying on the Service of the said Colony."

No copies of the letters sent to Andros by Governor Treat personally or by the General Court on January 26, 1686/7, have been preserved; but his reply addressed to the Governor and Council and dated at Boston on February 25, 1686/7, refers to "the Letter you mention att his Ma<sup>ties</sup> accession to the Crowne" as the reason they give for delaying a surrender of their charter. He offers "another opportunity" to them for surrender, "if you yett doe itt, and lett mee heare from you without delay." In a personal letter of the same date to Governor Treat, Andros refers to the governor's lack of regard for the quo warrantos and for the king's commands received through himself and says, "you therby hazard the advantages might bee to y<sup>e</sup> Colony, and totally your owne" and he does "hope better of you and whole Colony by yo<sup>r</sup> good ensample."

Continuing their monthly exchange of letters, a letter was sent to Andros by the General Court, dated March 30, 1687, the day the Court held its session, in reply to his of February 25th. In it they say that "we cannot vary from what we informed your Excelency in o<sup>r</sup> Letters of January 26 past, by reason we have by o<sup>r</sup> severall addresses formerly sent to his Ma<sup>tie</sup> left o<sup>r</sup>selves so fully to be guided and dissposed by his princely wisdome, and have not rece<sup>d</sup> any return or direction from his Ma<sup>tie</sup> since;" and they hope that "an

amicable correspondence may be continued . . . till his Ma<sup>ties</sup> further pleasure be made known to us."

On June 15, 1687, a General Court met at Hartford, transacted its business and adjourned the same day. According to the record Governor Robert Treat was present at the Court. The reason for calling this Court was stated to be the receipt of a letter from agent Whiting giving "an acco<sup>t</sup> of o<sup>r</sup> affayres in England" and requesting that some one be sent over to manage the matter "if we conclude to defend o<sup>r</sup> Charter." The Assembly for financial reasons declined to send an agent to England; but thanked Mr. Whiting for what he had done, requested him to continue to serve them and "to doe whatsoever shall be needfull to be don for vs," for which "they would give reasonable satisfaction."

On March 12, probably of even date with his letter to the Colony, Whiting wrote a rather doleful personal letter to his "old ffriend and schoole fellow," Secretary John Allyn.\* In it he says, "as for your charter I conclude it will in a little time be gon, . . . whether it be gon by surrender, Judgment at Law or not defending it, is all one." Also, "as for my own part, I am so circumstanced that I cannot serve you, and uppon mature deliberation have come to a Resolution not to appeare in it, neither can I fynde any here willing to undertake it."

The final entry, previous to adjournment, in the records of this Court is as follows: "Sundry of the Court desireing that the Patent or Charter might be brought into the Court, the Secretary sent for it, and informed the Governo<sup>r</sup> and Court that he had the Charter, and shewed it to the Court; and the Governo<sup>r</sup> bid him put it into the box againe and lay it on the table, and leave the key in the box, which he did forthwith."

This is a very curious record; but it may be in part explained by the views expressed in the following letter dated on the 30th of the previous March, the day of a special session of the General Court called to make reply to Andros' demand for a surrender of the charter.

"To the Hone<sup>rd</sup> Gen<sup>ll</sup> Court.

"Gent<sup>m</sup>, Vpon the reasons which haue been layd before

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\**The Loss of the Charter Government in Connecticut*, by Lemuel A. Welles.



you, with many more that might be giuen, we doe declare that we do verily belieue it is for the Aduantage of this Court Freely; and voluntarily to submitt yo<sup>r</sup>selves to his Ma<sup>ties</sup> disspose, and not to begin or hold any further Suites in Law with his Ma<sup>ts</sup> which in noe wise can be expected will promote o<sup>r</sup> profitt or wealfare.

“And for o<sup>r</sup> own parts, we doe declare, and desire you would take notice, we are for answering his Ma<sup>ties</sup> expectation, by a present submission, and are against all further prosecutions or engagements by Law Suites in opposition to his Ma<sup>tes</sup> known pleas<sup>r</sup> for o<sup>r</sup> submission.

“~~W~~ us } John Talcott  
          } John Allyn,  
          } Sam<sup>l</sup> Talcott.”

In a previous letter dated February 3, 1686/7, Allyn had written, “I haue hoped that this time we should haue bin ready to haue joyned o<sup>r</sup> diuisions & to haue made an intire body, but by o<sup>r</sup> statesmen it is thought not convenient yet, & they will not be moued beyond their pace; notwithstanding the advantage that offers to encourage a present union, they will not be persuaded to it. It lookes so like a giueing away that which is precious to them, which they can rather be passiue then actiue in parting with it; & allso those difficulties that threaten the standing out, — as the procureing his Maj<sup>ties</sup> displeasure, makeing our termes the harder, & looseing the little share we possibly might haue in the Gouvern<sup>t</sup> if cheerfully submitted to, — seemes of litle weight with too many. The result of p<sup>r</sup>sent considerations are that we must stand as we are untill his Ma<sup>tie</sup> farther dispose of us, & all that is gained is o<sup>r</sup> gent<sup>n</sup> rather choose to be conjoyned w<sup>th</sup> Massechusetts than with any other Prouince or Colony.”

Thus we find two of the official keepers of the charter and a third member of the Governor's Council, a brother of one of them, counciling and declaring for “a present submission” without further opposition to his Majesty's wishes. Small wonder is it if “Sundry of the Court” desired to be assured by an actual sight of the charter that it was still safe in the Colony's possession and had not already been clandestinely surrendered by its custodians. As to why it was officially

left in the box on the table, with the key in the box, we can only conjecture.

It may be, and there is some reason for thinking, that the meeting and adjournment of the General Court on June 15th had been carefully planned to precede the arrival on the following day of Edward Randolph bearing another letter from Sir Edmund Andros. It will be remembered that it was at the instigation of Randolph that the writs of quo warranto were first issued. Reverend Noadiah Russell of Middletown records in his diary on June 16th, "Mr Randolph came up to Hartford from S<sup>r</sup> E. [Edmund] to psuade y<sup>e</sup> comp[Company] to subm<sup>t</sup>." On the 17th he writes "Gover<sup>r</sup> came to H: [Hartford] told M<sup>r</sup> R: [Randolph] y<sup>e</sup> c: [Court] had determined to wait for an express [expression] of his Maj. [Majesty]." In his letter, sent by Randolph, addressed to the Governor and Council and dated Boston, June 13, 1687, Andros says, "many of yo<sup>r</sup> friends in these parts, who have p<sup>r</sup>vailed with me on yo<sup>r</sup> Assembly's meeting, to expresse my inclynaçons still not to be wanting for yo<sup>r</sup> welfare if you yett give me oppertunity by accepting his Ma<sup>ties</sup> favour soe gratusly offered you, in a p<sup>r</sup>sent compliance & surrender." To this the Governor and Council made reply on the 18th, saying that they are sorry the bearers of the letter "came too late to reach our Generall Court, who adjourned the evening before the arriveall of those Gent<sup>n</sup>, though by what we took notice of their minds we conclude they would not have altered or varied any thing from what in their former letters they wrot unto you; for at their last session they resolved to continue in the station they are in, till his Ma<sup>ties</sup> pleasure be made known to them (for a change), and they haveing so declared, it is not in our power to vary or alter what they have so resolved; . . . but must wayte his Ma<sup>ties</sup> pleasure for our farther disspose, which shall readily be submitted unto by vs." This, like most of the previous letters relating to the quo warrantos, was signed by John Allyn as Secretary of the Colony, showing that whatever his private opinion as to the surrender of the charter, he was, in his official capacity, faithful to his trust as Secretary. With this letter the correspondence between Andros and the

Colony ceases, except for a final note from Andros more than four months later.

In the mean time Agent Whiting was keeping the Colony informed by several letters as to the state of their affairs in England. He for the second time states his "mynde" that the charter will be lost. He has delivered the Colony's letter of January 26th, 1686/7, to Lord Sunderland which was "by him communicated to the Lords of the Comittie for Forreigne Plantations, and by them to his Maj<sup>ty</sup>." It was an expression in this letter that the English authorities believed, or assumed to believe, was intended by Connecticut as a surrender of her government, and the king (says Chalmers) "readily granted their request of being annexed to the Bay." Whiting gives information that no return of the quo warranto has been made; also that a rule of court has been passed setting a date for the Colony's "appearance," and later that he has sealed, in the Colony's behalf, a warrant of attorney to appear, but as no information has been given in against the Colony "the case stands as it did." He cannot yet learn whether any will be put in between this and next term. As a matter of fact, no further action on the quo warranto was taken, the authorities assuming that the Colony's letter of January 26th was a surrender.

Matters continued as they had been between Andros and the Colony from the middle of June until past the middle of October. The regular October session of the General Court had been held and had adjourned, and its records contain nothing about a surrender of the government and no mention of the charter or of the controversy concerning it. After this period of quiet and inaction the following letter from Andros to Governor Treat may have come as a surprise and shock.

"Boston, Oct<sup>r</sup> 22<sup>d</sup>, 1687.

"Sr.

"This is to acquaint you that I have received effectuall orders and commands from his Ma<sup>tie</sup> for Connecticott, annexed to this Government, (in a very gracious manner) with particuler regard and favour to y<sup>r</sup>selfe. And resolve to send or be myself att Hartford ab<sup>t</sup> the end of next weeke, pursuant thereunto, to meete you and such Gent<sup>n</sup> as you shall think fitt



for his Ma<sup>ties</sup> service w<sup>ch</sup> I will not doubt to y<sup>r</sup> satisfac̃on,  
and other his Ma<sup>ties</sup> loyall subjects in y<sup>r</sup> parts; and remain, S<sup>r</sup>,  
“Yo<sup>r</sup> affectionate Friend,

“E. Andros.

“To the Hono<sup>ble</sup> Governo<sup>r</sup> Treate, These.”

The “effectuall orders and commands” here mentioned for annexing Connecticut, which had been approved by the King in Council on the eighteenth of the previous June, were doubtless received by Andros from a ship that had reached Boston from London five days previous to the date of this letter. On the same day as the letter, October 22d, at a meeting of Andros and his Council in Boston it had been “Advised and Resolved” that pursuant to His Majesty’s orders Andros should go in person or send to Connecticut during the following week “to take the said place under his Government.”

Here at last was notice of definite and positive action. Their government was to be taken over by Andros and their Colony annexed to the other New England Colonies under his authority. No way appeared by which this could be prevented. But what of their precious charter. No vote had been passed by the Colony to surrender it. According to the latest information received from England, perhaps within the month, no complaint against it had been filed in court and no action taken to annul it. It was still valid and its provisions still in effect and legal. Would the king undertake to annul it? Could he do so of his own motion if he so desired? A charter, particularly if it bore the great seal, was an almost sacred object and one not to be lightly thrust aside. So long as it remained in the grantees possession, and so long as its seal remained officially unbroken and intact, could it be invalidated except by legal action in court? The officials of that period, who were probably more familiar than we with the customs and precedents relating to charters and seals, must have pondered upon these questions. But what could be done if Andros showed his royal commission and demanded possession of the charter?

Andros set out from Boston for Hartford on October 26, 1687, attended by eight members of his council and other gentlemen and an escort of mounted grenadiers under the command of Captain Nicolson, consisting of blue-coats, red-

coats and trumpeters, the whole making a party of sixty or more. They left Norwich on the morning of Monday the 31st and proceeded towards Hartford. One of the Assistants, probably Captain James Fitch or Captain Samuel Mason, "personally attending him in his journey to Hartford, posted away before him to the River," arranged for the party's transfer across the river "and then posted to Hartford to give notice of his coming that way, by means whereof the Troop was posted away to Wethersfield to meet and conduct his Excellency."

Upon his arrival at Hartford, says Reverend Gershom Bulkeley in his "Will and Doom," "he was received with all respect and welcome congratulation that Connecticut was capable of. The troop of horse of that county conducted him honorably from the ferry through Wethersfield up to Hartford, where the trained bands of divers towns, (who had waited there some part of the week before, expecting his coming then, now again, being commanded by their leaders,) waited to pay him their respects at his coming."

Just what happened on that day after his arrival? How we long for a detailed account of the events. We have two records made at the time or practically so. The best known and commonly accepted one is the record of the General Court held on that date, October 31, 1687. There were present the Governor and Deputy Governor, nine of the twelve assistants and twenty-four of the thirty-four deputies. The only entry for this court session, aside from the names and residences of those present, is the following:

"His Excelency S<sup>r</sup> Edmond Andross Kn<sup>t</sup> Capt. Generall & Gov<sup>r</sup> of his Ma<sup>ties</sup> Teritorie & Dominion in New England, by order from his Ma<sup>tie</sup> James the second, King of England Scotland France & Ireland the 31 of october 1687 took Into his hands the Goverment of this colony of Conecticott It being by his Ma<sup>tie</sup> annexed to the Massachusets & other Colonys under his Excelencies Goverment. Finis."

The second record is the entry for October 31st in the diary of Reverend Noadiah Russell, who although a resident of Middletown seems to have kept in close touch with Hartford. It reads thus:

“The Gener<sup>l</sup> court met at Hartford: & S<sup>r</sup> Edm<sup>nd</sup> Andros came (w<sup>th</sup> a commission from his majesty to take y<sup>e</sup> governm<sup>t</sup> of y<sup>e</sup> place) accompanied with 70 p<sup>sons</sup> Gentlem<sup>n</sup> Red coats &c.”

Russell continues his diary for the next day, November 1st, as follows:

“S<sup>r</sup> Edm<sup>d</sup> came into y<sup>e</sup> court chamber read his commission & y<sup>e</sup> K[ings]: Letter. dissolved y<sup>e</sup> Gener<sup>l</sup> court, took y<sup>e</sup> Governm<sup>t</sup> &c.”

Bulkeley in “Will and Doom,” written in 1692, continues:

“Being arrived at Hartford, he is greeted and caressed by the governor and assistants, (whose part it was, being the heads of the people, to be most active in what was now to be done,) and some say, though I will not confidently assert it, that the governor and one of the assistants did declare to him the vote of the general court for their submission to him.

“However, after some treaty between his excellency and them that evening, he was the next morning waited on and conducted by the governor, deputy governor, assistants and deputies, to the court chamber, and by the governor himself directed to the governor’s seat; and being there seated, (the late governor, assistants and deputies being present, and the chamber thronged as full of people as it was capable of,) his excellency declared, that his majesty had, according to their desire, given him a commission to come and take on him the government of Connecticut, and caused his commission to be publickly read.”

The record kept by Andros and his Council at this time is as follows:

“At a Council held at Hartford, on  
Tuesday, the first day of November, 1687.

“Present:

“His Excellency Sir Edmund Andros, Knight, etc.

“Joseph Dudley, John Fitz Winthrop, John Pynchon,

“Wm. Stoughton, John Usher, Barth. Gidney,

“Rob’t Mason, Edw. Ting, Esq’rs.

“His Excellency, pursuant to the orders and commands he had received from his majesty, being come to take that colony under his government, as annexed to the Dominion of



New England, advised what way proper further to proceed to effect the same accordingly.

“Resolved, That Robert Treat, Esq’r, Governor of the said colony, and John Allen, Esq’r, Secretary, be sent for to attend his excellency in council, and that his majesty’s said commands be first communicated to them.

“Pursuant to the said resolve, the said governor and secretary came, and to them was signified by his excellency his majesty’s commands for that colony. And for the further publication of his majesty’s said commands, it was

“Advised and resolved, That the said governor and magistrates do forthwith attend on his excellency and council, and bring with them such persons as they shall think fit, to hear his majesty’s said commands.

“Before noon, the said governor and magistrates attending on his excellency at his lodging, they all together went from thence to the publique court house, where his excellency publicquely signified the occasion of his coming, and commanded his majesty’s letters patents for the government of New England, and his majesty’s orders for his excellency for annexing the said colony to this dominion of New England and to take the same under his government, to be publicquely read; which was done accordingly.

“His excellency after repeated the substance of what had been read, and shewed how gracious his majesty had been to his subjects of Connecticut, telling them that they were now entitled to all the grace and favor contained in the said letters patents, and that the former authority and general court was dissolved and the said colony annexed to the Dominion of New England accordingly.

“Pursuant to his majesty’s commands, Robert Treat, Esq’r, the late governor of Connecticut, and John Allen, Esq’r, the late secretary, were sworn of his majesty’s council.”

The next day’s record of Andros and his Council begins thus:

“At a Council held at the Town-house in Hartford, on Wednesday, the 2d day of November, 1687.”

The next record, believed to refer to this period, is in the minutes of the General Assembly for May 1715 when:

“Upon consideration of the faithful and good service of Capt. Joseph Wadsworth, of Hartford, especially in securing the Duplicate Charter of this Colony in a very troublesome season when our constitution was struck at, and in safely keeping and preserving the same ever since unto this day: This Assembly do, as a token of their grateful resentment of such his faithful and good service, grant him out of the Colony treasury the sum of twenty shillings.”

Not until 1759 is another written record found of events at the time Andros assumed the government. Then Roger Wolcott wrote in his “Memoir for the History of Connecticut:”

“In October, 1687, S<sup>r</sup> Edmond Andross came to Hartford. The Assembly met and sate late at night. They ordered the charters to be set on the table, and unhappily or happily all the candles were snuffed out at once, and when they were lighted the charters were gone. And now S<sup>r</sup> Edmund being in town and the charters gone, the Secretary closed the Colony records with the word *Finis* and all departed.

“S<sup>r</sup> Edmund then assumed the government and acted arbitrarily toward the people.”

Note that in this record Wolcott falls into the error of using the word “charters” when only one of the two charters was in the country in 1687. He falls again into the same error on May 28th, 1764, in his statement to Ezra Stiles, President of Yale College, who makes the following entry in his “Itinerary:”

“Nath<sup>l</sup> Stanly Father of late Col Stanly took one of the Connect<sup>t</sup> Charters & M<sup>r</sup> Talcott late Gov<sup>r</sup> Talcotts Father took the other from Sir Edm. Andross in Hartford Mghouse the Lights blown out. This fr. Gov. Wolcott.” Examination of the original record indicates that the last eight and probably the last eleven words were written at a period subsequent to the first part of the entry.

Rev. Thomas Ruggles of Guilford writing in 1769 says of Andrew Leete that “it is said and believed (that he) was the principal hand in securing and preserving the charter, when it was just upon the point of being given up to Sir Edmund Andros.”

George Chalmers in his "Political Annals," printed in London in 1780, says:

"They now carefully concealed their charter in a venerable elm.

"Andros went to Hartford, in October, 1687. He published in the general-court, his orders and commission; which every one tacitly obeyed. He dissolved the former government; he assumed the administration."

Our honored historian Reverend Benjamin Trumbull in his "History of Connecticut," published in 1797, gives the following account of the happenings at the time Andros assumed the government and frankly refers to much of it as tradition:

"The assembly met as usual, in October, and the government continued according to charter until the last of the month. About this time, Sir Edmund, with his suit, and more than sixty regular troops, came to Hartford, when the assembly were sitting, demanded the charter, and declared the government under it to be dissolved. The assembly were extremely reluctant and slow with respect to any resolve to surrender the charter, or with respect to any motion to bring it forth. The tradition is, that Governor Treat strongly represented the great expense and hardships of the colonists, in planting the country, the blood and treasure which they had expended in defending it, both against the savages and foreigners; to what hardships and danger he himself had been exposed for that purpose; and that it was like giving up his life, now to surrender the patent and privileges, so dearly bought and so long enjoyed. The important affair was debated and kept in suspense until the evening, when the charter was brought and laid upon the table, where the assembly were sitting. By this time, great numbers of people were assembled, and men sufficiently bold to enterprise whatever might be necessary or expedient. The lights were instantly extinguished, and one Captain Wadsworth, of Hartford, in the most silent and secret manner, carried off the charter, and secreted it in a large hollow tree, fronting the house of the Honorable Samuel Wyllys, then one of the magistrates of the colony. The people appeared all peaceable and orderly. The candles were officiously



relighted, but the patent was gone, and no discovery could be made of it, or of the person, who had conveyed it away. Sir Edmund assumed the government, and the records of the colony were closed in the following words."

Lastly, let us note the account given by Reverend Abiel Holmes, who evidently copied from Trumbull, and who had come to Hartford and consulted with the Wyllys family in 1804, the year previous to the publication of his "American Annals."

"Sir Edmund Andros went, in October, with his suite and more than 60 regular troops, to Hartford, where the assembly of Connecticut was then sitting; demanded the charter; and declared the government to be dissolved. The assembly, extremely reluctant and slow to surrender or produce the charter, kept the subject in debate and suspense until evening; when the charter was brought and laid on the table, where the assembly was convened. The lights were now instantly extinguished. There was no appearance, however, of disorder. The candles were relighted; but the patent was gone. Sir Edmund assumed the government; and the records of the colony were closed. The charter, in due time, came to light. Captain Wadsworth of Hartford silently carried it off, and secreted it in a large hollow oak tree, which, to this day, is regarded with veneration, as the preserver of the constitution of the colony."

The foregoing summarizes the early record evidence that we have of events at the time Andros assumed the government. Even some of this is stated to be tradition. Let us try to sift the probabilities from these often uncertainly expressed and sometimes contradictory statements.

Andros came from Norwich on October 31st with his attendants, a body of sixty or more. He could not have reached Hartford until the day was far spent. Upon his arrival he was "greeted and caressed" by the governor and assistants and held "some treaty" with them that evening. At that conference he probably announced to them his authority from the king to take over the government and his purpose so to do without delay.

On this same date, October 31st, the General Court,

whose members were doubtless in town awaiting Andros' coming, held a session at which they record that he on that day "took into his hands the Government of this colony of Connecticut," and closed their record with the word "Finis." There is no indication that Andros was present at that meeting, and no reference to the charter. Indeed, it seems not unreasonable to suppose that Andros at the time did not even know that such a meeting was held; but that, either upon word of his approach or after the conference with him that evening, Governor Treat and the Council, convinced that nothing could now prevent the government from passing into Andros' hands, hastily called the General Court together and passed the vote acknowledging his authority and wrote "Finis" to their proceedings as is recorded. They might have judged that such advance action on their part would place both the Colony and themselves personally in better favor with Andros when he should actually assume the government of Connecticut. For it is to be remembered that, notwithstanding the General Court's record of October 31st, Andros did not, according to his own official record and his later statement, annex the Colony to his Dominion of New England until the next day. The following morning, November first, Andros called together the eight members of his Council who had accompanied him and consulted ("advised") with them "what way proper further to proceed to effect" the taking of Connecticut under his government pursuant to the king's commands. It evidently seemed that friendly and pacific measures would be best, and it was decided to request "Robert Treat, Esq'r, Governor of the said colony, and John Allen, Esq'r, Secretary," to attend the Council and hear the king's commands. They having attended and listened to these commands, it was "Advised and resolved" that for "the further publication" of these commands "the said governor and magistrates do forthwith attend on his excellency and council, and bring with them such persons as they shall think fit." Pursuant to this, they met with Andros "at his lodging" probably late in the forenoon, but "Before noon" according to the record, and "all together" went from there "to the publique court house." Bulkeley says that "he was conducted

by the governor, deputy governor, assistants and deputies, to the court chamber" and that "the chamber (was) thronged as full of people as it was capable of."

Upon their arrival "the governor himself" directed Andros "to the governor's seat." After seating himself he "publicly signified the occasion of his coming" declaring "that his majesty had, according to their desire, given him a commission to come and take on him the government of Connecticut, and" says Bulkeley, "caused his commission to be publicly read." The record of his Council, which included himself, states that he "commanded his majesty's letters patents for the government of New England, and his majesty's orders for his excellency for annexing the said colony to this Dominion of New England and to take the same under his government, to be publicly read; which was done accordingly."

"His excellency after repeated the substance of what had been read, and shewed how gracious his majesty had been to his subjects of Connecticut, telling them that they were now entitled to all the grace and favor contained in the said letters patents, and that the former authority and general court of that colony was dissolved and the said colony annexed to the Dominion of New England accordingly.

"Pursuant to his majesty's commands, Robert Treat, Esq'r, the late governor of Connecticut, and John Allen, Esq'r, the late secretary, were sworn of his majesty's council."

It was presumably at this meeting and upon his command that John Allyn, "the secretary . . . delivered their common seal to Sir E[dmund] A[ndros]."

Although Andros had now annexed the Colony and declared the former government to be dissolved and had received the colony seal, with its perhaps to be considered prophetic motto, he still lacked possession of the charter, and he was doubtless well aware that unless that was surrendered or otherwise annulled his government was only one of force. All of these proceedings, from the moment that the governor and others waited upon Andros at his lodgings "Before noon," until the late governor and secretary were sworn into his Council, must have consumed considerable time. The season was late in the year, the days were short, the sun had sunk



below the horizon before five o'clock, the windows in the buildings of that period were few and small, so that it may well have been that this meeting was protracted until after the candles were lighted and darkness had fallen. Trumbull says that Andros demanded the charter, that the Assembly were reluctant and slow about bringing it forth, that Governor Treat made a long speech setting forth his extreme reluctance to surrendering it and the reasons why it was so dear to the colonists, that the meeting was continued until evening when the charter was brought in and laid upon the table, that great numbers of people were assembled, that the lights were instantly extinguished (others say were snuffed out), that Captain Wadsworth silently and secretly carried off the charter and secreted it in a hollow tree on the Wyllys property, that the people were peaceable and orderly, that the candles were officiously relighted, "but the patent was gone, and no discovery could be made of it."

The next day, November second, Andros and his council, which now included Treat and Allyn, held another meeting at which justices of the peace and quorum and sheriffs were appointed for each county and some other business transacted. Such a meeting would presumably be held in the same "court chamber" of "the publique court house" which had been the scene of Andros' triumphs and disappointments the previous day. But on this occasion the place is designated as "the Town-house in Hartford."

It is of interest to note that Andros remained in, or perhaps near, Hartford during the following day and left for New Haven on Friday, the fourth. On the fifth he continued on to Fairfield where he probably spent the following day, which was Sunday. It may have been at this time and place that, according to a memorandum written in an early psalm book, the congregation in his presence sang the psalm beginning "How doth the tyrant walk abroad." Not all of his red coats took the journey with him, for some of them were in Middletown on that Sunday. The next day, Monday, November seventh, Andros returned to New Haven, and the following day he went to Saybrook. After spending the night there he continued on his way towards Rhode Island.

Such then is a summary of events occurring in Hartford during Sir Edmund Andros' only visit to the town, as they are seen by the writer. And now to take up and endeavor to answer a number of questions that will arise and to discuss a number of controverted points.

Perhaps the first query is where did Andros stay while in Hartford? Where was "his lodging?" We do not know. The most natural place for him to have stopped would have been at the best known inn in the town, located on Main Street where the south part of the Travelers Insurance Company's building now stands, and kept by Zachary Sanford. It was from a room in this inn that the charter is generally believed to have been taken by Lieutenant, later Captain, Joseph Wadsworth. But leaving his lodging he with the governor and others went "from thence to the publique court house." So either he did not lodge at Sanford's or that inn was not called the public court house.

This brings us to the question of where the meeting was held when the charter was taken. The only person to mention a place is Governor Wolcott, as quoted by Ezra Stiles, in 1764, who says the charters were taken "in Hartford Mghouse." This "Mghouse" is supposed to mean "Meeting" house. Wolcott, however, was so erratic and conflicting in his statements that little credence can be given them. In May 1715 when an Assistant or member of the Upper House of the General Assembly, he was one of a committee of conference between the two Houses that reported favorably the bill which was passed making a grant to Joseph Wadsworth for "securing the Duplicate Charter of this Colony in a very troublesome season when our constitution was struck at" and safely keeping it until that time. Only one charter is mentioned as secured or kept by him, and the use of the words "the Duplicate," in the sense of "the other," were only to distinguish it from the one already in possession of the colonial authorities at that time. No person other than Wadsworth is mentioned as having to do with the affair. The presence as deputies at this Assembly of two members, one of them from Hartford, who were present as deputies on October 31, 1687, and also when charter government was resumed on May 9,

1689, would tend to show that Wadsworth and he alone was then recognized as the hero of the occasion for which he received a reward.

When he was eighty years of age, in 1759, Wolcott records that "the charters" were taken, which use of the plural we now know to be incorrect; but makes no mention of any individual as having taken them. His statement also places the closing of the records with the word "Finis" on October 31st as subsequent to the taking of the charters. This is most unlikely, for, as we have seen, Andros made no effort to take over the government or even to publicly communicate his official orders until the following day.

Five years later in 1764 Wolcott, when 85 years old, said, as recorded by President Stiles, "Nath<sup>l</sup> Stanly, Father of late Col Stanly took one of the Connect<sup>t</sup> Charters & M<sup>r</sup> Talcott late Gov<sup>r</sup> Talcott's Father took the other." Here we have the curious contradictions of a person who was a boy of eight when the charter was secreted and who passed his long life within a few miles of the spot; who was one of a committee 28 years later, in 1715, that gave the full credit to Wadsworth and mentions only one charter; who in 1759 mentions two charters without giving credit to any person, and who in 1764 refers to two charters and gives credit to Stanley and Talcott with no mention of Wadsworth.

Verily what may we believe among these conflicting statements. In the committee report of 1715 he was acting with others and doubtless in agreement with them. In the other and later statements he speaks for himself alone.

As to Wolcott's statement that the meeting at which the charter was taken was held in the meeting house. We find that on May 27, 1708, Joseph Wadsworth was criticised by the Court of Assistants, which was composed of the governor or deputy governor and six members of the Council, for rash words which he had spoken in the gallery of the meeting house under the court chamber where the Governor and Council were sitting. In May 1715 the Council gave orders "to mend and repair the court chamber in the first meeting house at Hartford, so it may be safe for the courts to be held in the same, at the Colony's charge."



Thus it appears that there was a court chamber in the meeting house from at least 1708 to 1715 and probably continuing until the building of the State House in 1719 or 1720. What courts were held there or how early, we do not know. It is the writer's opinion that various courts including perhaps the General Court were held in this meeting house for a few years previous to the building of the State House. These later holdings might have caused Wolcott to confuse place and date in his recollection and consequent statement.

It is, however, possible that in using the expression meeting house Wolcott intended only to indicate the meeting place, the house where a meeting was held, and not specifically the house erected for public worship. Such was the original (but now obsolete) definition or meaning of the term "meeting house," and we find it so used in England as late as 1658. The General Court in October 1689 established the time and manner of balloting for nominating and of voting for the governor, deputy governor and assistants. This order directs that "the freemen in the severall plantations shall meet in their seuerall townes upon the third Tewsday in March yearly, at their meeting house, about nine of the clock in the morning," to nominate; "and upon the last Tewsday in Aprill the freemen in each town in this Colony are to meet as afoars<sup>d</sup> about nine of the clock in their meeting house" to cast their ballots for the election of the above named officers. Surely the General Court did not intend to order that the meetings held in each and every town must be held in their respective houses of public worship and in no other buildings.

It is the popular belief that the place from which the charter was taken to prevent its passing into Andros' hands was the court chamber in Zachary Sanford's tavern. This belief has been crystalized by its inclusion in several modern printed books and by the recent placing on the site of a tablet carrying a statement to that effect. Let us endeavor to trace the reasons for this belief.

The earliest written mention of Sanford's tavern in this connection that has come to the writer's notice is in a long, verbose and oratorical article on "The Charter Oak" prepared some seventy-five years ago by Isaac W. Stuart of Hartford

and doubtless publicly read by him although never published. In this he used the same statements or arguments which in somewhat greater detail have been advanced by later writers. They are as follows.

Jeremy Adams in 1651 purchased the tavern that later became Sanford's. In 1660 he was given by the General Court the exclusive right to "sell wine vnd<sup>r</sup> a quart<sup>r</sup> cask [and] liquors vnd<sup>r</sup> an Ankor" in Hartford; and the same year "The Treasurer and William Wadsworth are appointed to take in . . . his acco<sup>t</sup>." The following year he found himself in financial difficulties with the Colony because of his indebtedness to Mr. Hopkins' estate and mortgaged the property to John Talcott, treasurer of the Colony. During this year, says Dr. Love, there is a deposition which mentions a "Court Chamber" in his house. The same year the General Court proposed to the freemen to lessen by one-half the number of deputies from each town because of "the great cost and burthen y<sup>t</sup> lies vpon this Collony by the great number of Deputies that attend y<sup>e</sup> Gen<sup>l</sup> Courts." This might be taken to indicate that the expenses of the deputies, perhaps even to board and lodging at the tavern of Adams and his successor Sanford, were paid by the Colony. We know that the deputies received a salary, and it seems quite possible that in addition a part or the whole of their expenses were paid by the Colony. An order of October 1689 directs that "for speciall courts the charge of the deputies shall be payd out of the publique treasury." The next March, 1661/62, upon his request that the house he "doth now possess and improve for an Ordinary, or house of co<sup>m</sup>on enterteinment," may so continue for the future, the General Court gave Adams a perpetual and unrevokable license. This was conditioned on the house being kept "to y<sup>e</sup> good likeing and approbation of y<sup>e</sup> Gen<sup>l</sup> Court," and "That there be at all times necessary & comfortable accommodation and provision made for enterteinment of Travellers with horse and otherwise, and that both respecting wine and liquors and other provision for food and comfortable refreshing both for man and beast." The property was foreclosed by the Colony in 1681. Adams died in 1683. The contents of the Court Chamber, as shown by his inventory,

were two tables, a carpet, 12 "Joynstooles," "a fforme" or bench, two leather "chayrs," four other "chayers," a "Beed Beedsted and ffurniture," a straw "Beed," three sheets, a pair of andirons, two earthen dishes, a looking glass, a sword and a "Cubberd;" all appraised at £14-6<sup>s</sup>-6<sup>d</sup>.

The property was sold in 1685 to Adams' grandson Zachary Sanford. His will of 1710 mentions a "Chest in the Jury-Chamber;" but his inventory four years later makes no mention of either court chamber or jury chamber or of furnishings appropriate for those rooms.

The inventory of Jonathan Bunce, Sanford's son-in-law, who apparently succeeded to both his tavern and its contents, taken in January 1718 includes "A Long Table & Foarm." It mentions the "Jury Chamber" and the "Court Chamber." In these rooms were a long table, a small table, a "Turkey Work" carpet, four "Turkey Work" chairs, six other chairs and four cushions. Sundry other miscellaneous articles enumerated would indicate that these two rooms were used as storage rooms. It is to be remembered that the word "chamber" as here used is not intended to signify either a sleeping room or an up-stairs room; but, to quote the dictionary, "a hall appropriated to the meetings of a deliberative, legislative, or judicial body."

In 1687 the General Court appointed a committee "to agree with our landlord Sanford for the payment of what the country is indebted to him" and in 1704 they ordered a payment to him of 46 shillings "for expences in his house."

From the foregoing it would appear that the tavern, at one time owned by the Colony, kept by Adams and his successor Sanford, to which a perpetual license had been granted subject to the pleasure of the General Court, contained a court chamber and a jury chamber. Sundry payments by the Colony would tend to show that these chambers were used by some court or courts and perhaps also that individual members of these courts contracted personal bills at public expense. It was no doubt the general gathering place of persons who came to Hartford to attend as members or otherwise the meetings of the various courts. The presence of a jury chamber indicates that the meetings of some of the lesser courts were held



here. There were during this period the Particular Court, the Court of Assistants, the County Court and the meetings of the Governor and Council. Any one of these could have met in a comparatively small room, and the charge for the room and perhaps for such minor items as heat, light and attendance, would have been made against the Colony by the landlord.

Lastly there is the General Court to be considered. When all were present it consisted of about fifty members. Was there a room in the tavern of sufficient size to accommodate so large a number? The furniture in the court chamber would not so indicate. It consisted, in addition to two tables, of six chairs, twelve stools and a "forme" or bench, which at best would probably not seat above eight persons. This makes seating accommodations for only about one-half the members of this court, and no account is taken of the numerous persons who would appear before the court with petitions, in trials or at various hearings.

There is no record or no actual evidence that the General Court ever held a meeting in the tavern on Main Street kept by Adams or Sanford, and no statement to that effect so much as a century ago is to be found. The nearest approach to it is the expression "our landlord Sanford" used by the General Court in March 1687; but the expression might be used as referring to the Colony if only a smaller court, such as the Court of Assistants, were held there — for he would then be the Colony's landlord and the expenses of such a court would be paid by the Colony. The expression cannot be considered as proof of a General Court meeting at his tavern.

There is one other place to be considered at this time for the holding of meetings of the General Court. Russell says that on November first 1687 "Sr Edm<sup>d</sup> came into y<sup>e</sup> court chamber," and Bulkeley states that on that date Andros went with the Colony's officials "to the court-chamber." The records of Andros and his Council, presumably written at the time by the Council's secretary, say they went "to the publique court house." Andros in reporting the occasion soon after to Secretary William Blathwayt in England writes, "I set out [from Boston] as soon as I could, and well accompanied for such services, and the first instant in the Court House at Hartford, all their

magistrates there, removed said Colony under my Government accordingly, without any contest.”\* From which four statements we may conclude that the meeting was held at the public court house and in the room there known as the court chamber. It was in that room that the Colony of Connecticut was “annexed to the Dominion of New England.” The next day November second, Andros and his Council, which now included two members from Connecticut, held another meeting. In all probability this meeting would be held in the same court chamber where they had gathered on the previous day; but the records of Andros and his Council say that it was “held at the Town-house in Hartford.” What and where was this public court house or town house in Hartford?

By no stretch of imagination or perverse use of the English language could a single room or court chamber in a tavern have been designated as the court house, the public court house, or the town-house. These meetings must have been held at some place other than Sanford’s tavern.

Perhaps before 1643 the town of Hartford acquired an acre of what was originally the home lot of William Hills on the southwest corner of what is now Governor and Sheldon streets. Probably there was already a house upon the lot. This building is spoken of on the records as “the Towne House.” Early in 1659 the townsmen were ordered to repair the house and later a committee was given power to sell it, which they did in December of the same year. So it will be seen that a town house later in the century would not have been a new thing in Hartford. It is believed that the Hartford town’s school was kept in this house, for in 1643 the town’s “2 great gunns” and their appurtenances were stored “in the schoole howse.”

There was a town house in Wethersfield as early as 1665, and between 1668 and 1670 public meetings were held in the town house in Windsor.

Partly at least, owing to misunderstandings and arguments over the legacy left for educational purposes by Governor Edward Hopkins, no move for securing a new school house or

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\**Loss of the Charter Government in Connecticut*, by Lemuel A. Welles.

town house was made for several years. In January 1665/6, or within a year previous to that date, the Hopkins legacy having been paid over to the town, a committee of the town purchased of William Loveridge a tract of two acres with a house and other buildings thereon "for and towards the maintenance of a Lattin Schole." This tract, originally the home lot of Deacon Andrew Warner, was situated on the south side of what is now Sheldon street, two lots west of the former town house. Two years after its purchase the lot was said to be "in the possession and improvement of the Town" and in 1673 it is called "The schoole house lot." The school committee in 1698 were "desired to serch the records and acording to thier right and pour to dispose of said house & lot cald y<sup>e</sup> Town house as thay think for the best advantage of y<sup>e</sup> scole & towne." A new school house had probably been erected a few years previously. This school-town property was not at once sold, but probably was rented, for in 1710 the school committee was authorized to exchange "the house and home Lott belonging to the Town that is Improved for the maintenance of the Schools." The exchange was effected two years later.

Here then is the explanation of certain things not previously understood. The house standing on the school house lot was used for other than school purposes, as well as for a school. It was called the town house. At one time in 1675 the Indian men of the town were for their own safety gathered into the house and held there under guard. On November 2, 1687, Andros and his Council met there to continue the appointment of officials, which they had begun the previous day in "the publique court house." Undoubtedly the "court house," the "Town-house" and the house standing on "The schoole house lot," for it is nowhere on official records definitely called the school house, were one and the same building. Here would be the "court chamber" in which that never to be forgotten meeting of November 1, 1687, was held, when the representative government of Connecticut was for a short time lost and, in all probability, the charter of Connecticut was for all time saved.

From the foregoing, it is the writer's judgment that such



evidence as is to be found and the inferences and probabilities that may be drawn from the records and evidence all point to a court chamber in the court-town-school house on the south side of what is now Sheldon street, as the spot where Wadsworth seized the charter on the evening of November 1, 1687.

Now a word about the time that the charter was seized by Wadsworth. No one of the earlier writers gives a date for the incident. Some say about the last of October, others that Andros came to Hartford October 31st and demanded the charter, but without indicating that either the demand or the failure to secure it occurred on that particular day or evening.

It is not until within the last eighty years, so far as has been discovered, that any written or printed statement was made that the charter incident occurred on October 31st. Whatever the General Court may have done on that date in the way of recording an annexation of Connecticut to the territory governed by Andros, we know that he did not demand or take over the government of the Colony until the following day, November first. This appears from both the contemporary journal or record of Andros' Council, from his report sent to England later in the month and from the diary of Reverend Noadiah Russell. It would be unreasonable to suppose that Andros would demand the charter and order it brought before him on the day previous to that on which the king's commands were "first communicated" to the Colony's officials. No, the charter must have been demanded by and produced before Andros and then seized by Wadsworth not on October 31st, but on November first, the day that Andros met with the officials of the Colony and as many other persons as could crowd into the court chamber and told them "that the former authority and general court . . . was dissolved" and the Colony annexed to his government.

Within two days after Andros took over the government of Connecticut, he began to manifest his feeling of authority. Governor Treat had appointed the annual day of public thanksgiving for November third, and had doubtless sent proclamation to that effect to every town. Andros considered such appointment as a royal prerogative; such royal authority in this instance being vested in himself by his commission

from the king. He was, however, too late to prevent the observance of the day as "a publique thanksgiving throught y<sup>e</sup> colony," except in the two towns of Hartford and Wethersfield. In these towns, doubtless owing to the orders and presence of Andros, the thanksgiving was not observed. This failure of observance in Wethersfield may be a hint of the presence of Andros in that town during some part of the time that he was in the vicinity — perhaps as the guest of that rank tory Reverend and Doctor Gershom Bulkeley. Later in the month, upon his return to Massachusetts, Andros forbade the observance of a day of thanksgiving that had been proclaimed there, and himself appointed December first to be observed throughout his dominion of New England as a day of thanksgiving.

The Andros government having been overthrown and he himself put into prison in Boston in April 1689, the freemen of Connecticut were convened in Hartford on May 9th following and, it is said in spite of some opposition, agreed "that they would re-establish the Government as it was before and at the time when S<sup>r</sup> Edmond Androsse tooke the Government." Accordingly they organized and held a General Court composed of the former officials of October 1687; electing several persons to fill vacancies that had occurred since that time. The following month at a special General Court, William III and Mary were proclaimed king and queen and a formal address to the king was prepared and approved. This address describes in detail the overthrow of their charter government, recounts the recent resumption of such government, and asks the king's "grace and favour" for "such ratifications and confirmations of our charter, in y<sup>e</sup> full and free enjoym<sup>t</sup> of all our properties, priveledges and liberties both civill and sacred as therein granted to us."

This address was sent to William Whiting, the Colony's former agent, whom they ask to deliver it and to serve further as their agent. Whiting in his reply states that it had seemed best not to present the address which had been sent; but that another had been delivered by word of mouth "w<sup>ch</sup> was well rec<sup>d</sup>." He declines to serve longer as the Colony's agent. He also states that in a plea before the Council board "the late

Attorney Gen<sup>ll</sup> and Mr. Blaythwait" acknowledged "that there was neither record of surrender or judgem<sup>t</sup> against yo<sup>r</sup> Charter," and so he supposes it to be good.

Six months passing without the receipt of any word from the king, Governor Treat and the Council on January 3d, 1689/90, appointed James Porter, "an inferior officer in y<sup>e</sup> custom house," a merchant and a man of small experience in affairs at Court, as the Colony's agent in London and at the same time sent to him for presentation another address or petition to his "Most Excelent Ma<sup>tie</sup>." In this short address they "humbly intreat" the king to confirm to them "the liberties, priviledges & properties granted in our charter." Porter was instructed, "In case you obtayn nothing of his Ma<sup>tie</sup>," to "obteyn the judgments of the Judges, whether o<sup>r</sup> charter be not as good as ever." As he did not feel competent to act in these matters, Porter after some effort persuaded Reverend Increase Mather, one of the Massachusetts agents, to act for him. Mr. Mather writes to Governor Treat in August following that he has left the Colony's petition in the office of the principal Secretary of State from whence it would be laid before the king. Mr. Mather also states that the judges may not give any opinion unless the king command it and says further, "therefore I applied myself to Sir George Treby who is the king's attorney general and to Sir John Somers who is the king's solicitor general and to Mr. Ward an eminent and famous lawyer. They are all of the opinion that you may go on with your charter government as formerly and say that you are very weak men if you do not so." As the copy of their opinion which he encloses has not heretofore been made public it is here given.

"The Corporacon of Connecticott Colony in New England not haveing under their Publick seal Surrendered their Charter and there being noe Surrender uppon Record, only when it was proposed to them by the late King James that they should take their choise whether they would be under the Governour of New Yorke or of Boston they humbly prayed that they might still injoy the Priviledge of Choseing their owne Governour according to their Charter, but if the King was resolved otherwise they said they had rather be under Boston



then under New Yorke, After which in the year 1687 S<sup>r</sup> Edm<sup>o</sup> Andross did by a Commission from the late King James; Invade the liberty of the people in that Colony and Exercise a Government over them contrary to their Charter w<sup>ch</sup> they most unwillingly submitted to; But since the late happy Revolucon in England the people of Connecticot have Chosen a Governour and Assistants according to their Charter and doubt not but that they have a legall right to their former Priviledges,

“Query: Whether the Charter belonging to Connecticot in New: England is by means of their involuntary submission to S<sup>r</sup> Edmond Andross Goverment void in law so as that the King may send a Governour to them contrary to their Charter priviledges when there has been noe Judgem<sup>t</sup> entered against there Charter nor any surrender thereof uppon Record/

“I am of opinion that such Submission as is put in this case doth not invalidate the Charter or any y<sup>e</sup> pow<sup>rs</sup> therein w<sup>ch</sup> was graunted under the great Seal and that the Charter not being Surrendered under the Common Seal and that Surrender duely Inrolled of Record nor any Judgem<sup>t</sup> of record entered against it the same remains good & valid in the law and that the Corporacon may lawfully Execute the pow<sup>rs</sup> & priviledges thereby graunt<sup>d</sup>: notwithstanding such submission and appointment of a Governour as aforesaid.

“2<sup>do</sup> Aug<sup>ti</sup> 1690 Edw. Ward

“I am of the same Opinion

“J Somers

“I am of the same Opinion and as this matter is Stated there is noe ground of doubt

“Geo Treby”

The endeavors of Colonel Benjamin Fletcher to obtain control of the Colony’s militia greatly disturbed the Connecticut authorities. In consequence the General Court made choice on September 1st, 1693, of Major General Fitz John Winthrop as their agent to proceed to England to endeavor to secure their charter rights in this matter. In the long document of instructions which the Court gave him, Winthrop is directed to take with him to London certain books and papers including “perticularly a cobby of our charter.” Before he had sailed, the

Governor and Council on October second addressed a letter to William Whiting in London announcing Winthrop's coming and requesting his advice and council to Winthrop. This letter contains the following sentence: "If he should want the exemplification of our charter, it is in your or M<sup>r</sup> Porters hand, please to deliver it to him." As Winthrop was carrying with him a copy (that is a transcription) of the charter this direction to Whiting seems to be the best kind of evidence that the "exemplification" then in Whiting's or Porter's hands was the second original charter referred to in the Colony's instructions to Whiting on August 24th, 1686, as "y<sup>e</sup> duplicate of o<sup>r</sup> charter . . . w<sup>ch</sup> by Governor Winthrop was left w<sup>th</sup> Mr. James Porter of London, and since by us he was ordered to deliver it to you." The same duplicate original charter must have been referred to by the Governor and Council in their letter to the same James Porter on January 3d, 1689/90, when they say, "If you have any ocassion for o<sup>r</sup> charter, o<sup>r</sup> late Governo<sup>r</sup> tould us he left an exemplification or cobby of o<sup>r</sup> charter in your hands. If M<sup>r</sup> Whiting by o<sup>r</sup> order hath taken it out of your hands we desire you to receive it of him again & to keep it in your hands for o<sup>r</sup> use till farther order."

From the above it seems proven that one of the two original charters of Connecticut remained in England from the time of Governor John Winthrop's return in the spring of 1663 until after Major General Fitz John Winthrop's arrival in that country in December 1693. That original must have been the one that does not carry the words "Per fine five pounds," for there is positive proof that the one having these words was in Connecticut as early as July 1688. There is also ample proof that the charter bearing these words was the one the remaining portion of which is now in the rooms of the Connecticut Historical Society. Therefore the one now in the Society's rooms must be the one preserved by Wadsworth and the only one that could have been hidden in the oak at the time of the Andros usurpation.

Arriving in England late in December, 1693, General Winthrop was able during the following year to persuade Their Majesties to curb the authority of Fletcher over the militia of Connecticut, and to obtain from Her Majesty a letter to the

Colony proclaiming "our gracious intentions to continue our royall protection to you and all our subjects of that our colony particularly in what may relate to the preservation of the peace, welfare and security of the same, & maintaining your just rights and priviledges." He thus obtained the two special objects of his mission, yet he continued in England guarding the Colony's interests during the three years next following. He arrived in Boston on his return voyage December 11th, 1697, probably bringing with him the second original charter of Connecticut, referred to in 1686, 1690 and 1693 as "the duplicate" or "the exemplification," which had remained in England since its granting in 1662. This he no doubt took an early opportunity to place in the hands of the Colony's secretary; after which the colonial authorities could correctly speak of the charter then in Wadsworth's possession as the duplicate, which they did in May 1698 and in 1715.

And now that the two charters have been accompanied thus far through their numerous vicissitudes, let us pass by the efforts made early in the eighteenth century to annul charter government in Connecticut.

There may be seen in the rooms of the Connecticut Historical Society the box that was the original receptacle in which one of the charters was placed and in which it was doubtless brought from England. It was placed with the Society by the Secretary of the State in June 1846. Which of the two charters the box originally held, it is impossible to prove; but there is the strongest probability that it was the one now in the possession of the State. The box is made of thin wood, covered with black leather with the cover hinged at the back, and is lined with printed sheets from a life of King Charles I. It is long, inside measurement  $34\frac{1}{2}$  inches, narrow and shallow to accommodate the document when rolled. At the front center is a circular projection seven inches in diameter inside, to contain the great seal which was attached to and authenticated the charter. A lock appeared in the front part of this circular projection.

Now a word about the individual history, physical appearance, and make-up of the two charters. Let us first take up the one which carried the words "Per fine five pounds."



This, as has been shown, is the one which was sent over from England soon after it was granted and was the only one in America at the time Sir Edmund Andros assumed the government. It is, therefore, the one that was secured by Lieutenant Joseph Wadsworth "in a very troublesome season when our constitution was struck at." He affirmed on May 25, 1698, "that he had order from the Gen<sup>l</sup> Assembly to be the keeper of it," and it was then allowed to remain in his custody "till the Generall Assembly or the Councill shall see cause to order otherwise." In May 1715 the General Assembly, "Upon consideration of the faithful and good service of Capt. Joseph Wadsworth . . . in safely keeping and preserving the same (i.e. the charter) ever since unto this day (from the time our constitution was struck at) . . . as a token of their grateful resentment of such his faithful and good service" made him a grant of twenty shillings from the Colony treasury. At this time the charter was in all probability surrendered by Wadsworth to the General Assembly. What is more likely than that it should have then been placed and allowed to continue in the hands of the Secretary of the Colony, Hezekiah Wyllys. He was succeeded in that office by his son, George, and he in turn by his son Samuel, who continued in the office until 1809. Hezekiah Wyllys, son of the above Samuel, continued to reside in the old family mansion at Hartford, on the grounds surrounding which stood the charter oak. He married Amelia (Dyer) widow of Colonel Joseph Trumbull. She died in 1818. The charter now under discussion was evidently handed down for more than a century through four generations of the Wyllys family, for the next we hear of it is embraced in the following memorandum printed by Charles J. Hoadly in 1868.

"In 1817, or 1818, while Mr. Boyd was preparing for college at the Hartford Grammar School, he boarded in the family of Rev. Dr. Flint of the south church. Coming in one day from school, he noticed on the workstand of Mrs. Bissell, the doctor's mother-in-law, a dingy piece of parchment covered on one side with black-letter manuscript. In answer to his inquiries, Mrs. Bissell told him that having occasion for some pasteboard, her friend and neighbor Mrs. Wyllys had sent her this. Mr. Boyd proposed to procure her a piece of paste-

board in exchange for the parchment, to which Mrs. Bissell consented. It was not, however, until six or eight years had elapsed that Mr. Boyd examined the parchment with care, when for the first time he learned what its contents were."

This parchment proved to be a portion of the charter which had been preserved by Wadsworth. Mr. Boyd was Honorable John Boyd, Secretary of the State 1858-1861. Mrs. Bissell was Amelia, widow of Colonel Hezekiah Bissell of East Windsor. Mr. Boyd placed the fragment which he rescued in the custody of the Connecticut Historical Society, where it may now be seen.

This charter is written on parchment in the formal black letter engrossing hand of the period. Its ink, originally black, has faded to brown. It is believed to have been written on two skins, the first of which must have been somewhat the larger of the two. It appears to have been complete and perfect on October 30, 1782, when a copy certified by the Secretary of the State was made from it. If the pen sketch which concludes this copy is to be credited, the seal was still attached to it, and the attachment was by means of a label, in which respect (if true) it would differ from the conventional charter of that period.

The fragment rescued and preserved by Mr. Boyd consists of about two-thirds of the second sheet. It is from the left upper portion of the sheet, having blank margins at the left of two and one-fourth inches and at the top of one inch in width. It is rectangular in shape, measuring twenty-one and one-half by twenty and one-quarter inches. A piece seven by six inches is wanting from the rectangle at the upper left corner, and another piece three and one-half by one and three-eighths inches from the lower right corner. There are no full lines of the written text; but portions of fifty-eight lines remain. Comparison shows that its original width must have been about the same as that of the other charter, which is thirty and one-half inches. The margin and the spaces between the written lines are set off by straight lines in red ink.

And now to consider the second charter, the one which does not have the words "Per fine five pounds." This charter is written on three sheets of parchment in the formal black



letter engrossing hand of the period. Its ink, originally black, has faded to brown. As has been shown, it was left in London by John Winthrop, when he returned to America in 1663, in the custody of James Porter and continued in his hands or in those of William Whiting, the Colony's agent in London, for more than thirty-four years and was probably brought to America by Fitz John Winthrop upon his return and arrival in Boston, December 11, 1697. For sixty-two years after there is no direct mention of this charter. Then comes the incorrect record made in 1759 by Roger Wolcott, then eighty years of age, that "the charters" were taken at the time Andros assumed the government. This would indicate that at the time he wrote there were two charters at hand; from which fact he might easily draw the mistaken inference that both were here in 1687. Five years later President Stiles of Yale perpetuated the error by quoting Wolcott and recording his statement giving the name of the person who took each of the charters. It is reasonable to believe that Fitz John Winthrop upon his return from England placed this charter in the hands of Secretary Eleazer Kimberly and that it continued in the hands of succeeding secretaries of the Colony and State.

In 1804 during the secretaryship of Samuel Wyllys, Reverend Abiel Holmes, who was probably at that time gathering material for his "Annals of America," visited Connecticut. On his return to his home in Cambridge, Mass., he carried back with him, as he himself records, a "piece of the seal that (was) annexed to the Connect<sup>t</sup> charter," which he had received "from the Wyllys family." This, the largest fragment of the seal known to exist, is of green wax and measures one and one-half by seven-eighths inches and is a scant half inch in thickness. The letters "LUS II" are to be seen on one side, showing that it is from the margin of the seal. The reverse side bears no indication of either lettering or design. This fragment has been since 1899 in the possession of the Connecticut Historical Society, which has also possessed for many years several smaller fragments.

For the later history of this charter we can do no better than to quote the following from Dr. Charles J. Hoadly's "The Hiding of the Charter."



"About 1840, the charter was kept in its box in the Secretary's office, unprotected by any case; and persons used to get off bits of the box or of the leather covering it as souvenirs. The seal had then disappeared, probably having been taken bit by bit by relic hunters. I have understood that so long ago as 1810, but about half of it remained. It was of dark green wax. The box and some fragments of the seal are now in the possession of the Connecticut Historical Society. The charter was framed in Secretary Hinman's time, and the present one is the third frame which has enclosed it. The first was of mahogany; the second veneered with wood of the Charter oak presented by I. W. Stuart; the third, procured at the time of the removal to the present capitol."

The writer has been told that the box containing this charter lay exposed for many years on the ledge of an interior window in the Secretary's office. He also had formed the opinion that the charter was not framed until 1846, although the secretaryship of Royal R. Hinman dates from 1835 to 1842. The removal to the present capitol was in 1879.

A few years before this removal, about 1875 to 1878, one Horace Heath who was employed in the capitol as an engrossing clerk, and who was a remarkably fine penman, was employed by the Comptroller\* to go over this charter with pen and ink and strengthen some of the letters which had faded so that they were becoming indistinct. As the ink used by him was of a darker shade than the ink of the charter as it then appeared, most if not all of the retouching can be distinguished.

The last framing of the charter was done by or under the supervision of A. D. Vorce and Company of Hartford. When the heavy and elaborate oak frame was completed, it was found to be too small to contain the document, and in order to make it fit the frame a small part of the charter was cut off. This fact was kept very quiet and was known to only a few persons. The part cut off was blank, showing that it was from a margin, and was about one-half an inch wide. It was cut into pieces and divided among a select few. The writer has known one person and has known of another who had

\*Probably by Charles C. Hubbard, Comptroller 1877-1879.

possessed pieces, both Hartford residents and now deceased. It was doubtless at the time of this framing that the charter was mounted on a thin canvas.

The lower part of each of the three sheets of parchment on which this charter is written has been cut off, probably at the time it was first framed. This is proved by the fact that all below the three holes, one at the center and one near each side, where the sheets were originally fastened together, is missing. The bottom of the first skin shows the holes in the center and on the right side; the second skin shows part of center hole; and the third skin shows the center hole. These small holes are not the ones through which the cord to which the seal was attached was passed. A bit of parchment twisted to form a string was frequently used on such documents to fasten the sheets together, a knot on either side holding it in place. How much has been cut off, we can only surmise. From the first sheet perhaps two inches or a little more, as that was folded over to hold the other sheets; from the second and third sheets perhaps an inch or a little less. It may be noted here that the sheets of the Rhode Island charter have been trimmed in the same manner, as a careful examination of it in its frame will show.

The whole as framed now measures sixty inches in length by thirty and one-half inches in width. The top edge of the first sheet shows distinct signs of wear. At the upper left hand corner of this sheet is a large and elaborately written letter C. Within this letter appears a handsome portrait of His Majesty. This is said, upon what authority does not appear, to be the work of Samuel Cooper, the finest miniature painter of the period in England. An ornamental band more than five inches wide extends across the top of the sheet at the right of the large capital letter. This bears scroll work with branches of fruit and flowers and birds. These scrolls and figures and the portrait of the king although soft and delicate in appearance and shading are drawn or painted in black, probably with India ink, forming a distinct contrast with the faded brown ink of the written charter. Below this ornamental band the first six words of the text written in large letters form the first



line. This is followed by  $18\frac{1}{2}$  inches of writing and a blank margin at the bottom of one and one-half inches.

The second sheet contains 20 inches of writing with a blank bottom margin of one and one-half inches. The third sheet has only eight and one-half inches of writing with five inches blank below it. The length of each full line of writing is 28 inches, the twelfth from the top being the first full line. Both margins of the writing and the spaces between the lines are set off by straight lines in red ink. There is also a red line three-fourths of an inch from the left hand edge and four blank lines at the end are lined in red.

This charter after being in the custody and office of the successive Secretaries of the Colony and State for a long period, probably for a little more than two centuries, was transferred to the State Library and the custody of the State Librarian. There on November 17, 1902, it was removed from the frame and examined and a signed record of the fact laid in at the back as it was replaced in the frame. The framed document was then fitted into the new fire-proof, steel safe that had been procured to contain it. A few years later, upon the completion of the State Library and Supreme Court Building, the safe was removed to Memorial Hall in that building, where the charter may now be seen.

And now what of the story that Wadsworth, immediately upon seizing the precious charter to prevent its passing into Andros' hands, hastened with it to that monarch of the primeval forest that stood upon the Wyllys family grounds and secreted it in a hollow of that tree, which has since become famous as "The Charter Oak." There is absolutely no evidence or proof of such an occurrence. There is no mention of such hiding that is contemporary or near contemporary. The story is entirely traditional. The old saying that it takes one hundred years to make a tradition may be said to have an illustration here; for it is not until 1780 that any printed statement is found that the charter was secreted in a tree, and practically an even century (1789) before it is stated that the tree was an oak.

Reverend Benjamin Trumbull, who had begun to gather material as early as the period of the Revolution, says in his



"History of Connecticut," published in 1797, "The lights were instantly extinguished, and one Captain Wadsworth, of Hartford, in the most silent and secret manner, carried off the charter, and secreted it in a large hollow tree, fronting the house of the Honorable Samuel Wyllys, then one of the magistrates of the colony."

This account probably served as the basis for succeeding accounts in school books and in other histories. Yet in spite of the traditional character of the story, it is universally believed. Even that critical antiquarian Dr. Charles J. Hoadly, who was wont to remark that when he heard a pretty story he usually believed it was not true, once said emphatically to the writer, "I believe the charter was hidden in the charter oak," and he makes a similar statement in his published paper on "The hiding of the charter."

As already remarked, the record of the General Assembly in 1715, when a grant was made Wadsworth for securing the charter in a very troublesome season when the Colony's constitutional rights were struck at, would seem to be proof that he was considered the hero of the occasion. The record of the Assembly goes further. It says that he has kept and preserved the charter "ever since unto this day," a period of more than twenty-seven and a half years. He probably surrendered the charter to the Colonial authorities at that time. On one previous occasion official record is found of the charter being in his possession. At a meeting of the Governor and Council held in Hartford, May 25, 1698, "The duplicate of the Pattent by order from the Govern<sup>r</sup> and Councill being brought by Capt<sup>n</sup> Joseph Wadsworth, and he affirming that he had order from the Gen<sup>r</sup><sup>l</sup> Assembly to be the keeper of it, the Govern<sup>r</sup> and Councill concluded that it should remain in his custodie till the Generall Assembly or the Councill shall see cause to order otherwise, and the s<sup>d</sup> duplicate was delivered to him by the order of the Councill." Here again the expression "the duplicate" is used in the sense of "the other," indicating that the colonial authorities were then already in possession of one of the two original charters — which presumably had been brought from England by Fitz John Winthrop when he returned in December, 1697.

These official records, showing the charter to have been in Wadsworth's possession apparently for the full period from November 1, 1687, to May 1715, would seem to disprove and set at rest the claims which have been made that others had some part in the securing or preserving of the charter. As to the family tradition that Wadsworth after secreting the charter in the oak, removed it later in the same evening and buried it in his cellar, one may believe or disbelieve it as he pleases. It seems to the writer improbable that Wadsworth should have made a second hiding of the precious document on the same evening. Yet it could not have been allowed to remain in the oak for any lengthy period. Even if well hidden from prying eyes, the danger both from dampness and of destruction by animals or insects would have been too great.

Why Wadsworth should have retained the charter in his possession for more than a quarter of a century must ever remain a mystery. If he seized it on a sudden impulse and without the connivance of others, it may be that for a time, perhaps for several years, he alone knew the secret of its whereabouts. His was an independent spirit, and it seems quite possible that he sought or even demanded public recognition for his bold act before he would consent to return the document to its rightful possessor, the Colony. Wadsworth was not a member of the committee appointed to keep the charters and it seems incredible that that committee, which was made up of some of the foremost men of the Colony, would have voluntarily surrendered it at a critical time to an unauthorized individual. No, Wadsworth must have come into possession of it in an unauthorized and surreptitious manner.

The famous old charter oak, which was of the white oak species, stood on the lawn in front and a little to the east of north of the Wyllys mansion, at a point now covered by the curving roadway of Charter Oak Place where it leads up an incline from Charter Oak Avenue. Some of its roots were unearthed within a few years during a regrading of the roadway. A monument erected in 1907 by the Society of Colonial Wars in the State of Connecticut to commemorate the tree



and the event stands about two or three rods west-north-west of its site.

The notes which follow regarding the tree itself are for the most part extracted from an account written before and supplemented just after its fall by Isaac W. Stuart, then the resident owner of the property.

The gnarled base of the old tree measured 33 feet in circumference, two feet above the ground. Higher up the circumference of its trunk was 21 feet. It was broken off in a jagged manner about six feet from the ground by the force of the wind in a severe storm at 12:50 o'clock A.M. on the night of Thursday, August 21, 1856. Its destruction was seen only by a city watchman who chanced to be not far away. As it fell with a sharp cracking sound, to the eastward, the direction towards which it naturally leaned, two of its larger limbs were driven into the earth in such a manner that they supported the trunk and partially prevented its touching the ground. At the point where the trunk broke a horizontal fissure three or four feet long and one to three inches wide had appeared a few weeks before. The trunk was but a thin shell; on its north side the wood had already become sapless and spongy, and its living portion was the east and south sides. The cavity in the trunk was of large size and extended upwards for twenty feet. On one occasion in 1854 the twenty-eight men composing a New Haven fire company were in the cavity at the same time. Some years previous to its fall a lighted fire cracker thrown into the cavity set fire to the interior of the tree, and the firemen in extinguishing it were forced to cut into the tree where it branched. Following the fire the whole cavity was thoroughly cleaned and the holes covered with sheet metal, after which the old tree seemed to take on a new lease of life. It was probably at this time that the opening into the trunk, which was on the west or north-west side, was closed by the insertion of a heavy wooden, metal covered door which was fastened by a lock. What is believed to be this door is now in the custody of the Connecticut Historical Society.

This was not the original opening, into which the charter is said to have been thrust. That was on the east side and is



said to have been not far above the ground. Later that opening enlarged so that a person could enter the hollow trunk through it; and still later by some curious freak of growth the opening closed entirely between the years 1797 and 1805.

Professor John Brocklesby of Trinity College estimated the age of the tree to be eight hundred years.

When the fact of the old oak's fall became known, hundreds visited the scene and many were the small fragments of the tree that were carried away as souvenirs. During the day following the night of its fall the band from Colt's Armory visited the spot and played several selections all, to the number of more than twenty standing in the stump of the tree. The writer has been credibly informed that this is a true statement; but that a number of the musicians were able to place only one foot within the stump. The selections played were the "Dead March" from Saul, "Home Sweet Home" and "Hail Columbia." At sundown the bells in the churches of the city were tolled. Before the tree was moved several pictures of it were taken by A. E. Moore, a Hartford photographer. One photograph of it had been taken while it was standing. Upon its removal it was stored in a building belonging to Woodruff and Beach, iron founders.

Mr. Stuart was very liberal in granting the numerous requests which he received from all parts of the country for small fragments of the tree. Pieces of considerable size are in the possession of the Connecticut Historical Society and of the Wadsworth Atheneum in Hartford. A beautifully carved chair made from wood of the old tree is in the Senate Chamber at the State Capitol. Small bits of the wood are owned by many persons.

There are two trees now growing, one on public the other on private grounds in Hartford, which are almost universally recognized as being true seedlings of the charter oak. Doubt has been somewhat vociferously cast by two persons upon the authenticity of one of these; but, so far as the writer is aware, they have succeeded in convincing none but themselves of their doubts. Another seedling less well known, but apparently no less well authenticated, was destroyed a few years since in a grading operation. Still another was transplanted a

number of years ago to a public place with somewhat elaborate ceremonies. Unfortunately it died two or three years later. Another white oak, plebian and unpedigreed, was planted in its place and no public announcement of the substitution was made. There is still another tree that is fondly believed by some to be a seedling of the old oak. It can be considered only as an illegitimate offspring, since it is of the red oak species. Many acorns from the two trees first mentioned have been gathered and planted and numerous seedlings from these are now growing in various parts of these United States, each one a reminder of the successful effort of Connecticut to preserve its charter and the remarkably free governmental rights which that document conferred.

























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